POOR LAW STATUTES

1879–1889.

MACMORRAN

Glen V C. author of Vols 1-3

THE

Poor Law Statutes,

COMPRISING THE STATUTES IN FORCE

RELATING TO THE POOR;

AND TO GUARDIANS, OVERSEERS, UNIONS, AND PARISHES FROM 1879 TO 1889, INCLUSIVE,

TOGETHER WITH SO MUCH OF THE

LUNACY ACT, 1890, AS RELATES TO PAUPER LUNATICS,

With Notes and Index.

BY

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PREFACE.

THIS Volume contains the Poor Law Statutes from 1879 to 1889 inclusive. The title might be made a little more comprehensive, as the Work includes not only Statutes relating to Poor Law, but also Acts which relate to Guardians, Overseers, and Poor Law Officers, and to Unions and Parishes. Thus it contains Acts relating to Overseers with reference to their duties in matters of Parliamentary and County Registration; to Guardians in their capacity as rural sanitary authorities; to tithe rent-charge, charitable trusts, glebe lands, and similar subjects. In fact, every Act has been included which can be said to have any bearing, direct or indirect, upon the Law relating to Unions and Parishes, or affecting the duties of Guardians, Rural Sanitary Authorities, Overseers, or Poor Law or Parochial Officers. While the Work was in the press the Lunacy Act, 1890, became law, and necessitated the alteration of many of the Notes. That Act, in so far as it relates to pauper lunatics, has been included, and the Notes have been carefully revised down to date. The Index is by Mr. W. Mackenzie, M.A., Barrister-at-Law.

A. M.
M. S. J. M.

TEMPLE, *August*, 1890.

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ADDENDA.

Page 12.—A trades union is not a friendly or benefit society within the meaning of 42 Vict. c. 12: *Winder* v. *Guardians of Kingston-upon-Hull*, 20 Q. B. D. 412; 58 L. T. (N.S.) 583; 52 J. P. 535.

Page 18.—After note to section 2 add:—The powers of the Inclosure Commissioners are now transferred to the Board of Agriculture by 52 & 53 Vict. c. 30, *post*, p. 637.

Page 29.—After section 20 add note:—Sub-sections (3) and (6) of this section are repealed and re-enacted by the Interpretation Act, 1889, 52 & 53 Vict. c. 63, s. 13, *post*, p. 671.

Page 220.—After note to section 7 add:—and see *Re St. John Evangelist, D'Aungre's Charity*, 59 L. T. (N.S.) 617.

THE

STATUTES IN FORCE

RELATING TO

THE POOR, GUARDIANS, OVERSEERS, UNIONS, AND PARISHES.

42 VICT. CHAP. 6.

AN ACT to amend the Law with respect to District Auditors.

[28th March, 1879.]

WHEREAS the auditors of the accounts relating to the relief of the poor (in this Act referred to as district auditors) are under the Poor Law Amendment Act, 1868, appointed by the Local Government Board, and are by that Act declared to be civil servants of the State within the operation of the Superannuation Act, 1859, but the remuneration and expenses of such auditors which are by law payable out of local rates are in fact paid partly out of moneys annually provided by Parliament, and partly out of local rates; and whereas it is expedient that in future the whole of such remuneration and expenses should be paid out of moneys voted by Parliament, and that in lieu of the amount now so paid out of local rates an equivalent sum should be raised by means of stamps, in manner hereinafter mentioned, and also that further provision should be made respecting such payment and otherwise respecting such auditors:

31 & 32 Vict. c. 122. s. 24.

22 Vict. c. 26.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the District Auditors Act, 1879. Short title.

2. After the twenty-fifth day of March one thousand eight hundred and seventy-nine all payments to district auditors out Provision as to contribution by Trea-

Section 2. sury and out of local rate for payment of district auditors.

of any local rate shall cease, and the whole of the salaries or remuneration and of the expenses of district auditors, to such amount as may be sanctioned by the Treasury, shall be paid out of moneys provided by Parliament; and for the purpose of contributing to the amount required for the payment of such salaries, remuneration, and expenses, there shall be charged on every local authority whose accounts are audited by a district auditor a stamp duty for the use of Her Majesty, according to the scale contained in the First Schedule to this Act, and such duty shall be levied by a stamp on the certificate of the auditor hereinafter mentioned.

For the definition of the expression "Treasury," "local authority," see section 8, *post*.

The certificate of the auditor is mentioned in section 3.

Financial statement with stamped certificate of district auditor.

29 & 30 Vict. c. 113, s. 6.

3. Where the accounts of the receipts and expenditure of a local authority are audited by a district auditor, the local authority shall prepare and submit to the district auditor at every audit (other than an extraordinary audit held in pursuance of section six of the Poor Law Amendment Act, 1866) a financial statement in duplicate in the prescribed form and containing the prescribed particulars; one of such duplicates shall have the stamp charged under this Act affixed thereon, and the auditor at the conclusion of the audit shall cancel that stamp, and certify on each duplicate, in the prescribed form, the amount in words at length of the expenditure so audited and allowed, and further, that the regulations with respect to such statement have been duly complied with, and that he has ascertained by the audit the correctness of the statement.

He shall forthwith send the duplicate so stamped and certified by him to the Local Government Board; and in such case a return of the receipts or expenditure comprised in such statement need not, unless the Local Government Board so require, be sent to the Board in pursuance of the Local Taxation Returns Acts, 1860 and 1877.

23 & 24 Vict. c. 51.
40 & 41 Vict. c. 66.

The provisions of 29 & 30 Vict. c. 114, s. 6, are as follows:—"When the Poor Law Board (now the Local Government Board: 34 & 35 Vict. c. 70) shall require an auditor to hold an extraordinary audit of the accounts of any guardians or overseers, or of any officer, whether still continuing or upon his resignation or removal from office, such audit shall be deemed to be an audit within the meaning of the several acts relating to the audit of the accounts of the poor rate, and may be held after three days' notice thereof given in the usual manner."

The expression "prescribed" means prescribed from time to time by the Local Government Board. See section 8. The form of financial statement and of the auditor's certificate has been prescribed by the General Order of 25th April, 1879.

The Local Taxation Returns Act. 1860 (23 & 24 Vict. c. 51) provides

for an annual return to be made to the Secretary of State (now the Local Government Board : 34 & 35 Vict. c. 70) by clerks of local authorities authorised to levy rates, taxes, &c., of all moneys so raised ; private tolls are specially exempted from the operation. The Act of 1877 (40 & 41 Vict. c. 66) provides that the annual return of local taxation shall be made for the year ending on the 25th March, or on such other day as the Local Government Board may from time to time prescribe on the application of a local authority. The date has now been allowed to the 31st March by 51 & 52 Vict. c. 41, s. 73. But no return under the above Acts is necessary when the accounts are audited by a district auditor under this Act.

Section 3. NOTE.

Appointment and districts of district auditors.

4. The Local Government Board may from time to time appoint such number of district auditors as they may, with the sanction of the Treasury, think necessary for the performance of the duties of auditing the accounts which are for the time being by law subject to be audited by district auditors, and may from time to time remove such auditors.

The Board may from time to time assign to district auditors their duties, and the districts in which such auditors respectively are to act, and may from time to time change wholly or in part such duties or districts ; and every district so assigned to a district auditor, whether originally or upon any change, shall be deemed to be an audit district within the meaning of any enactment relating to district auditors or their districts, and the auditor to whom any district is assigned shall be deemed to be the district auditor for that district.

The Board may also, with the consent of the Treasury, appoint from time to time a person or persons, either temporarily or otherwise, to assist a district auditor in the performance of his duties, and any person so appointed shall, subject to any exceptions made by the terms of his appointment, have the same powers and duties, and be subject to the same obligations as the district auditor whom he is appointed to assist.

The Board, with the like consent, may assign to a person so appointed such salary or remuneration and such sum for his expenses as may seem fit, and such salary, remuneration, and expenses shall be paid out of moneys provided by Parliament.

The following accounts are audited by district auditors :

1. Poor law guardians (including rural sanitary authorities).
2. Overseers of the poor.
3. Managers of school districts formed under the Poor Law Amendment Act, 1844.
4. The Metropolitan Asylums Board.
5. Managers of the metropolitan sick asylum districts.
6. Urban sanitary authorities other than town councils.
7. School boards.
8. Churchwardens, so far as regards rates levied under the Compulsory Church Rates Abolition Act, 1868.
9. Highway boards.
10. Surveyors of highway parishes.

Section 4.

11. Waywardens of parishes in highway districts.
12. County councils.

NOTE. A list of the audit districts as at present arranged will be found in the *9th Annual Report of the Local Government Board*, p. li.

The statutes relating to the audit of poor law accounts are :—4 & 5 Will. 4, c. 76, s. 47 ; 7 & 8 Vict. c. 101, ss. 32—37, 49, 64, 65 ; 11 & 12 Vict. c. 91, ss. 4—10 ; 12 & 13 Vict. c. 103, ss. 9, 11 ; 29 & 30 Vict. c. 113, ss. 5—7 ; 39 & 40 Vict. c. 61, ss. 38, 39. See the notes to 45 & 46 Vict. c. 27, s. 8, *post*, p. 115.

Regulations as to audit.

5. Where any accounts of the receipts and expenditure of a local authority are subject by law to be audited by a district auditor, the Local Government Board may from time to time by order make, and when made revoke and vary, such regulations as seem to the Board necessary or proper respecting the audit of such accounts, including the form of keeping the accounts of the local authority and their officers, the day or days to which the accounts are to be made up, the time within which they are to be examined by the local authority, the mode in which, if it is so prescribed, they are to be certified by the local authority or any officer of that authority, the mode of publishing the time and place of holding the audit, the persons by whom such accounts are to be produced for audit, and the mode of conducting the audit, and an order under this section shall be deemed to be an order within the meaning of section ninety-eight of the Poor Law Amendment Act, 1834.

4 & 5 Will. 4, c. 76.

The local authorities whose accounts are audited by a district auditor are enumerated in the notes to the last section.

The regulations as to the audit of poor law accounts are contained in the General Order for Accounts, 14th January, 1867.

The 4 & 5 Will. 4, c. 76, s. 98, provides that in case any person shall wilfully neglect or disobey any of the rules, orders, or regulations of the Poor Law Commissioners (Local Government Board : 34 & 35 Vict. c. 70, s. 7), such person shall, upon conviction before two justices, forfeit and pay for the first offence any sum not exceeding 5*l.*, for the second offence any sum not exceeding 20*l.* nor less than 5*l.*, and in the event of such person being convicted a third time, such third and every subsequent offence shall be deemed a misdemeanour, and such offender shall be liable to be indicted for the same offence, and shall on conviction pay such fine, not being less than 20*l.*, and suffer such imprisonment, with or without hard labour, as may be awarded against him by the court by or before which he shall be tried and convicted.

Stamp duties under Inland Revenue.

6. The duties charged under this Act shall be deemed to be stamp duties under the management of the Commissioners of Inland Revenue, and all the Acts relating to stamp duties, particularly those relating to forgery, fraudulent dies, and other offences in connexion with stamp duties, shall apply accordingly; and such duties may, if the Commissioners so direct, be denoted by adhesive stamps, to be cancelled by the auditor as provided by this Act.

Section 7.

Failure to submit financial statement.

7. If a local authority fail to comply with the provisions of this Act with respect to a financial statement, such local authority, or if a clerk to the local authority is appointed, that clerk, and if no clerk is appointed, but there is a treasurer or other officer keeping the accounts which should be comprised in such financial statement, that treasurer or other officer shall be liable to a fine not exceeding twenty pounds for each offence, to be recovered by action on behalf of Her Majesty in the High Court of Justice.

The provisions of the Act with respect to a financial statement are contained in section 3.

The fine is to be recovered "on behalf of Her Majesty." It would appear therefore that the case of *Bradlaugh* v. *Clarke*, 8 App. Cas. 354; 52 L. J. Q. B. 505; 48 L. T. (N.S.) 681; 31 W. R. 677; 47 J. P. 405, applies. It was there decided that where a penalty is created by statute, and nothing is said as to who may recover it, and it is not created for the benefit of a party aggrieved, and the offence is not against an individual, it belongs to the Crown and the Crown alone can maintain a suit for it; and that to enable a common informer to maintain an action for a penalty created by statute, an interest in the penalty must be given to him by express words or by sufficient implication.

Definitions.

8. In this Act,—

The expression "local rate" means the poor rate, the general district rate, and every rate the proceeds of which are applicable to public local purposes, and which is leviable on the basis of a poundage assessment of the value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined.

The expression "local authority" means any person or body of persons who receive and expend any local rate, but does not include overseers of the poor.

The expression "prescribed" means prescribed from time to time by the Local Government Board.

The expression "Treasury" means the Commissioners of Her Majesty's Treasury.

Provision for existing auditors.

9. The Local Government Board, with the approval of the Treasury, shall as soon as may be after the passing of this Act, determine the salary or remuneration to be paid to the district auditors holding office at the passing of this Act, and the amount to be allowed for their expenses, regard being had to the sums which such officers have heretofore received out of local rates, as well as out of moneys provided by Parliament,

Section 9.

and to any change of their duties which may be made in pursuance of this Act.

Provision for first year.

10. If in the year one thousand eight hundred and seventy-nine the audit of the accounts of the receipts and expenditure of any local authority for any period ending on some day of the month of March has been completed before the expiration of two months after the passing of this Act, the local authority shall submit the financial statement required by this Act to the auditor within the said two months.

Repeal of Acts.

11. The Acts specified in the Second Schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned.

Provided that—

(1.) This repeal shall not affect anything done or suffered, or any right acquired or accrued, under any enactment hereby repealed; and

(2) Any auditor appointed in pursuance of any enactment hereby repealed shall (save as may be prescribed) have the same powers and duties and be subject to the same obligations as if such enactment had not been repealed.

Saving of certain fees and expenses.

12. Nothing in this Act shall prevent a district auditor from recovering any sum in respect of an audit held by him prior to the twenty-fifth day of March one thousand eight hundred and seventy-nine, or in respect of an audit of accounts made up to some day prior to that day, and the audit of which might have been held before the said day, or from recovering any expenses incurred, or which he may hereafter incur, in any proceedings which he is authorised or required to take or defend under the statutes in that behalf.

FIRST SCHEDULE.

Schedule 1.

Section 2.

SCALE OF STAMP DUTIES PAYABLE BY LOCAL AUTHORITIES.

Where the Total of the expenditure comprised in the Financial Statement is	The Sum shall be
Under 20*l.*	5*s.*
20*l.* and under 50*l.*	10*s.*
50*l.* and under 100*l.*	1*l.*
100*l.* and under 500*l.*	2*l.*
500*l.* and under 1,000*l.*...	3*l.*
1,000*l.* and under 2,500*l.*...	4*l.*
2,500*l.* and under 5,000*l.*...	5*l.*
5,000*l.* and under 10,000*l.*	10*l.*
10,000*l.* and under 20,000*l.*	15*l.*
20,000*l.* and under 50,000*l.*	20*l.*
50,000*l.* and under 100,000*l.*	30*l.*
100,000*l.* and upwards	50*l.*

For the purpose of this schedule the expenditure comprised in the financial statement shall be exclusive of any sum paid to another local authority in pursuance of a precept.

This schedule has been modified by the Local Government Act, 1888 (51 & 52 Vict. c. 41, s. 71), and sched. 2, which provides that the following scale shall, unless otherwise determined by Parliament, be substituted for so much of the scale set forth in the first schedule to the District Auditors Act, 1879, as relates to expenditure amounting to 100,000*l.* and upwards:—

Where the Total of the expenditure comprised in the Financial Statement is	The sum shall be
100,000*l.* and under 150,000*l.*...	50*l.*
150,000*l.* and under 200,000*l.*...	60*l.*
200,000*l.* and upwards...	15*l.* in addition for every 50,000*l.* or part thereof.

Schedule 2.

SECOND SCHEDULE.

ACTS REPEALED.

Section 11.

A description or citation of a portion of a Statute is inclusive of the words, section, or other part first and last mentioned or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Session and Chapter.	Title.	Extent of Repeal.
4 & 5 Will. 4, c. 76.	The Poor Law Amendment Act, 1834.	Section forty-six, so far as relates to officers for the examining, auditing, allowing, and disallowing of accounts.
7 & 8 Vict. c. 101.	The Poor Law Amendment Act, 1844.	Section thirty-two down to "Union therefrom." Section thirty-seven. Section forty-nine, from "being at the time the auditor of" down to "may be appointed," and from "and the salary of every such auditor" down to "board of guardians."
12 & 13 Vict. c. 103.	The Poor Law Amendment Act, 1849.	Section eight.
30 & 31 Vict. c. 6.	The Metropolitan Poor Act, 1867.	Section thirty-six and section thirty-seven.
31 & 32 Vict. c. 122.	The Poor Law Amendment Act, 1868.	Section twenty-four. Section twenty-five, except as regards existing auditors.
33 & 34 Vict. c. 75.	The Elementary Education Act, 1870.	Section sixty, from "for the audit district" down to "in a summary manner" at the end of sub-section one.
38 & 39 Vict. c. 55.	The Public Health Act, 1875.	Section two hundred and forty-seven, from "for the union" in sub-section one down to "from the place of audit" at the end of sub-section two.
41 & 42 Vict. c. 77.	The Highways and Locomotives (Amendment) Act, 1878.	Section nine, from "for the audit district" down to "is situate," and from "the auditor shall receive such remuneration" down to "in a summary manner."

Preamble.

42 VICT. CHAP. 10.

AN ACT to amend the Poor Rate Assessment and Collection Act, 1869. [23rd May, 1879.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title and construction. 32 & 33 Vict. c. 41.

1. This Act may be cited as the Assessed Rates Act, 1879, and shall be construed as one with the Poor Rate Assessment and Collection Act, 1869, in this Act called the principal Act.

Effect of allowance or deduction as regards qualification or franchise.

2. Where by way of commission or abatement or deduction under the principal Act, or purporting or assumed to be under the principal Act, an allowance or deduction has, before the passing of this Act, been or shall hereafter be actually made, the same shall, for the purpose of every qualification or franchise depending upon rating or upon payment of rates, be deemed to have been duly made in pursuance of every or any agreement, order, notice or proceeding necessary for the validity thereof under the principal Act, and to have been and to be an allowance or deduction which the overseers were and are empowered to make from the rate under the principal Act; and no qualification or franchise depending upon rating or upon payment of rates shall be defeated by reason of such allowance or deduction not having been made in pursuance of an agreement in writing, order in writing, or notice in writing, or by reason of the want or insufficiency of any agreement, order, notice, or proceeding necessary for the validity thereof under the principal Act, or by reason of any informality or defect in the making thereof; provided always that this Act shall not relieve any overseers from any liability which they have incurred or may incur by making an allowance or deduction otherwise than in pursuance of the provisions of the principal Act, or affect any remedy for the recovery of the amount of such allowance or deduction.

This is an amendment of the 32 & 33 Vict. c. 41. Section 3 of that Act provides that the owners of small tenements (*i. e.*, of the rateable value of less than 20*l.* in the Metropolis, 13*l.* in Liverpool, 10*l.* in Manchester or Birmingham, or 8*l.* elsewhere) may enter into an agreement in writing with the overseers to pay the rates, and the overseers may thereupon allow them a commission not exceeding 25 per cent. on the amount of the rates. By section 4 the vestry of any parish may order the owners of small tenements to be rated instead of the occupiers, and thereupon the overseers are

Section 2.
NOTE.

to allow to the owners an abatement or deduction of 15 per cent. on the amount of the rate. If an owner gives notice in writing that he is willing to be rated for any term not less than one year in respect of all such rateable hereditaments of which he is owner, whether these are occupied or not, the overseers are to allow him a further abatement not exceeding 15 per cent. By section 7 every payment of a rate by the owner, notwithstanding any allowance or deductions made by the overseers, is to be deemed a payment of the full rate by the occupier for the purpose of any qualification or franchise depending upon payment of the rate. And by section 19, when the owner pays the rates, the name of the occupier is to appear on the ratebook, and such occupier is to be deemed to be duly rated for the purpose of every qualification and franchise depending upon rating, and he is to be entitled to every such qualification and franchise, even if his name be omitted and he has made no claim to be rated.

The above section appears to be intended to remove doubts relating to the qualification or franchise of an occupier where there has been some irregularity in the agreement, order, or notice under which the owner has been rated and has paid the rates.

42 VICT. CHAP. 12.

AN ACT to amend the Divided Parishes and Poor Law Amendment Act, 1876. [23rd May, 1879.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

The provisions of s. 23 of 39 & 40 Vict. c. 61, not to apply to moneys to which a pauper or pauper lunatic may be entitled as a member of friendly or benefit society.

1. The provisions contained in the twenty-third section of the Divided Parishes and Poor Law Amendment Act, 1876, shall not apply to any moneys which a pauper or pauper lunatic having a wife or other relative dependent upon him for maintenance may be entitled to receive as a member of any friendly or benefit society, but such moneys shall, subject to any deductions for keeping up his membership required by the rules of such society, or any branch thereof, from which such pauper or pauper lunatic is entitled to receive such moneys, be paid or applied by the trustees, committee, or other officers of such society or branch to or for the maintenance of such wife or relative; and where a pauper or pauper lunatic having no wife or relative so dependent upon him is entitled to any such moneys, no claim shall be made under the said Act by the guardians of any union or parish upon any such society of which he is a member, or against any branch thereof, for the expenses incurred in his relief, unless and until the guardians or their relieving officer shall have declared the relief to be given on loan, and shall have, within thirty days thereof, noti-

fied the same in writing to the secretary or trustees of the society or branch of which the pauper or pauper lunatic is a member, and as such entitled to receive any payment. Section 1.

The 39 & 40 Vict. c. 61, s. 23, provides as follows: — When any pauper shall be entitled to any annuity or periodical payment, the trustee or other person bound to make payment of the same to the pauper may, from time to time, pay to the board of guardians of any union or parish, out of the instalments which have become due, the cost incurred in the relief of such pauper accrued since the last instalment, and such payment shall be a legal discharge to such trustee or other person for so much money as shall have been so paid.

Where the guardians incur any expenses in the relief of a pauper lunatic, being a member of a benefit or friendly society, and as such entitled to receive any payment, they may recover from him as a debt, or from his executors, administrators, or assigns, in case of his death, the sum so expended by them as aforesaid, and the managing body of that society, after notice from the clerk to the guardians, served previously to the money being paid over, shall be exonerated on payment thereof from any further liability.

Where any trustee, manager, or other person shall decline to make any payment, the guardians may apply to the justices in petty sessions assembled, and such justices may, if satisfied that it is right under all the circumstances to do so, make an order upon him to pay the requisite amounts then due to the guardians at once, and to pay from time to time in future as the liability in respect of the relief arises thereafter.

Provided that this clause shall not have effect unless and until the guardians or their relieving officer shall have declared the relief to be given on loan, nor in respect of any relief granted contrary to the rules and orders made under the authority of the statutes in that behalf.

It has been held that the above section applies to an unregistered as well as to a registered friendly society. (*Merthyr Tydvil Guardians* v. *Cambrian Lodge*, 45 J. P. 220.)

On the subject of relief by way of loan, reference may be made to the Out-door Relief Prohibitory Order of the 21st December, 1844, which provides that no relief which may be contrary to any regulation in that Order shall be given by way of loan, but that any out-door relief which may be given under that Order may, if the guardians think fit, be given by way of loan. The statutory provisions relating to relief by way of loan are as follows:—By section 58 of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), it is provided that any relief or the cost price thereof, which shall be given to or on account of any poor person above the age of twenty-one, or to his wife, or to any part of his family under the age of sixteen, and which the Commissioners [Local Government Board] shall by any rule, order, or regulation declare or direct to be given or considered as given by way of loan, and whether any receipt for such relief, or engagement to pay the same, or the cost price thereof or any part thereof, shall have been given or not by the person to or on account of whom the same shall have been so given, shall be considered, and the same is hereby declared to be a loan to such poor person. By section 59, in all cases where any relief shall have been given by way of loan under the previous section, it shall be lawful for any justice, upon the application of the guardians of the union providing such relief, and upon proof of the same having been given to or on account of any such person, his wife, or family as aforesaid, and of the same or any part thereof still remaining due, to issue a summons requiring such person, as well as the master or employer of such person, or some person on his behalf, to appear before any two justices, at a time and place to be named in such summons, to show cause why any wages due or which may from time to time become due from such master or employer, should not be paid over, in whole or in part to such guardians; and if no sufficient cause be shown to the contrary, or if such person, or some one on his behalf, shall not appear on the return of such summons,

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then the said justices shall, by order under their hands, direct the master or employer for the time being from whom any wages shall be due or from time to time become due or payable to such poor person, to pay, either in one sum or by such weekly or other instalments as the said justices shall in their discretion think fit, taking into consideration the circumstances of such poor person and his family, out of such wages, to such guardians, the amount of such relief or so much thereof as shall from time to time be due or unpaid, and the payment to and receipt of any such guardians shall be a good discharge to such master or employer for so much of any such wages as shall be so paid by virtue of any such order; and if any such master or employer shall refuse or neglect to pay to the guardians producing any such order the money thereby directed to be paid according to the terms of such order, and at the periods thereby fixed for such payment, the same may be levied and recovered, and the payment thereof enforced against the master or employer in such and like manner as penalties and forfeitures are recoverable under the Act (*i. e.*, the Poor Law Amendment Act, 1834, 4 & 5 Will. 4, c. 76, s. 99). By the Poor Law Amendment Act, 1848, 11 & 12 Vict. c. 110, s. 8, all relief to be granted by the guardians to any pauper upon loan may be recovered in the county court or other court for the recovery of small debts for the district wherein the union or the major part thereof shall be comprised, on the plaint of the said guardians, who may apply and be heard in such court by any officer appointed by them for such purpose, in manner prescribed by the statutes enabling them to appoint officers to act for them (5 & 6 Vict. c. 57, s. 17; 7 & 8 Vict. c. 101, s. 69; 11 & 12 Vict. c. 110, s. 11): Provided, nevertheless, that the remedy already provided by law for the recovery of the relief granted on loan shall be in force, and applicable to the relief chargeable to the common fund.

The rules of a friendly society sometimes provide that a member shall cease to be entitled to any benefit as such member if he becomes chargeable. In such cases it seems that justices cannot make an order. But when, notwithstanding such a provision, the justices made an order which was not appealed against or set aside, it was held that the justices were bound to issue their distress warrant, and that upon an application for such warrant it could not be refused on the ground that the order was invalid, or made without jurisdiction (*Reg.* v. *Swindon JJ.*, 42 J. P. 407). Where the rules allowed certain benefits in cases of sickness, it was held that insanity was within the meaning of the term "sickness" (*Burton* v. *Eyden*, 8 Q. B. D. 295; 37 J. P. 693). But where the rules provided that a member falling sick, lame, or blind, or otherwise disabled from work, should be entitled to a certain weekly allowance, it was held that incapacity to work, arising from natural decay as the result of old age, did not entitle a member to the allowance (*Dunkley* v. *Harrison*, 56 L. T. (N.S.) 660; 51 J. P. 788). A law clerk became a member of a society in 1875. He fell into ill health in 1882, and became a collector to a brewery, and was off and on a collector and merchant's clerk until he was finally incapacitated. It was held that his customary employment being that of a law clerk, he became entitled to permanent allowance under rules which provided that a member should be entitled to such allowance when he was prevented from following his customary employment (*Manchester Law Clerks Society* v. *Wilson*, 52 J. P. 276).

For a case where a friendly society were indicted for disobedience of a justices' order under the above act, see *Reg.* v. *Joyce*, 43 J. P. 471.

Short title.

2. This Act may be cited as the Poor Law Amendment Act, 1879.

Preamble.

42 & 43 VICT. CHAP. 31.

AN ACT to amend the Public Health Act, 1875, as to Interments. [21st July, 1879.)

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows; (that is to say,)

1. This Act may be cited as the Public Health (Interments) Act, 1879, and shall be construed as one with the Public Health Act, 1875, in this Act called the principal Act. Short title and construction. 38 & 39 Vict. c. 55.

The effect of this Act, and the powers and duties of urban and rural sanitary authorities under it, are clearly set forth in a circular letter of the Local Government Board, dated 19th August, 1879, which is here published *in extenso*.

The object of the Act is to enable sanitary authorities, rural as well as urban, to provide cemeteries for their districts, and for this purpose all the provisions of the Public Health Act, 1875, with respect to a mortuary are extended to a cemetery.

As the sanitary authority are aware, section 141 of the Public Health Act enables a sanitary authority to provide and fit up a proper place as a mortuary for the reception of dead bodies before interment, and to make bye-laws with respect to the management and charges for the use of the same, and it is moreover compulsory on a sanitary authority to provide a mortuary if they should be required by the Local Government Board to do so.

The effect, therefore, of the Act, which has just been passed, is, in like manner, to empower a sanitary authority to provide a cemetery, and to render it compulsory on them to do so if the Local Government Board should require one to be provided.

The Legislature has not specified the cases in which it is incumbent upon the sanitary authority to give effect to the provisions of a new statute; but, seeing that it is incorporated with the Public Health Act, there can be no doubt, that wherever, in the interests of the public health, it is necessary that a cemetery should be provided in any locality, the Legislature contemplated that the local authority would exercise the important powers now conferred upon them.

The following may be referred to as circumstances under which it will be incumbent upon the sanitary authority to take action:

1. Where in any burial ground which remains in use there is not proper space for burial, and no other suitable burial ground has been provided;
2. Where the continuance in use of any burial ground (notwithstanding there may be such space) is by reason of its situation in relation to the water supply of the locality, or by reason of any circumstances whatsoever, injurious to the public health;
3. Where, for the protection of the public health, it is expedient to discontinue burials in a particular town, village, or place, or within certain limits.

There are other circumstances which might render it necessary or expedient that a cemetery should be provided, such as inconvenience of access from the populous parts of the district to the existing burial ground, or the nature of the site, or the character of the subsoil; and instances may exist where, in deference to the wishes of the inhabitants, it may be expedient

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to provide, in accordance with the policy of the Burial Acts, a cemetery in which persons of different creeds may be buried with their own religious rites. On all or any of the foregoing grounds the authority of the Local Government Board may be invoked, and if the application should prove well founded, a compulsory order would necessarily follow.

The question, however, whether a cemetery should be provided for a particular locality will be one for the determination of the sanitary authority in the first instance; and it is only in the event of their default to establish a proper cemetery where one is required, or in consequence of a loan being needed to carry out the undertaking, or, if they should determine to construct a cemetery outside their district, of objection being taken to such a proceeding, that the Local Government Board have any authority to interfere.

The President has reason to believe that in numerous localities considerations of public health require that a cemetery should be provided, and with a view of enabling the authority to determine whether on sanitary grounds it is necessary, or desirable, that a cemetery should be provided for all or any part of their district the medical officers of health should be instructed to report upon the state of the several burial grounds within the area subject to their jurisdiction.

The statute enables a sanitary authority to acquire, construct, and maintain a cemetery either within or without their district. In the latter case however, at least three months before the cemetery is commenced public notice must be given, and, in the event of any objection, the work cannot proceed without the sanction of the Local Government Board after the local inquiry.

It will be seen, therefore, that a sanitary authority are empowered not only to establish a cemetery, but also to purchase an existing one; and it will be competent for the sanitary authority, in the event of their failure to acquire a suitable site by agreement, to apply for a provisional order enabling them to take lands for the purpose compulsorily.

Moreover, with the sanction of the central authority, they will be enabled to borrow money to pay for the purchase of the requisite land, for draining and inclosing the site, and for rendering it otherwise suitable for the object intended.

At the same time I am to point out that, if the sanitary authority should deem it expedient to provide a cemetery without resorting to a loan for the purpose, it is competent for them to do so, and to charge the cost upon the local rates.

In the case of an urban sanitary authority the rate liable for this cost will be the general district rate, or other rate applicable to the general purposes of the Public Health Act within the district. In the case of a rural sanitary authority the amount would come under the head of general expenses, and be defrayed out of the rate applicable to the payment of such expenses.

If, however, the cemetery were provided for a separate contributory place, by which is meant a parish or special drainage district, or so much of a parish as is not within an urban sanitary district or a special drainage district it would be competent for the Local Government Board to order the amount to be special expenses, in which event the charge would be borne by the particular contributory place, but with this distinction in the incidence of the rate, that whereas in the case of general expenses the amount is either paid out of the poor rate or levied by a rate of an equal sum in the pound, in the case of special expenses the amount is raised by a separate rate to which lands are assessable at only one-fourth. It may be useful to add here that the rates referred to would in like manner be applicable to the maintenance of the cemetery after it is established, and also that a rural sanitary authority may depute to a parochial committee the exercise of their powers in connection with the management of any cemetery which may be required for any contributory place.

In addition to the powers conferred upon sanitary authorities of purchasing land for a cemetery the recent Act authorises them to accept a

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donation of land for the purpose, and also a donation of money or other property for enabling them to acquire, construct, or maintain a cemetery.

With regard to the regulation of the cemetery after it has been established, I am to state that the application to a cemetery of section 141 of the Public Health Act, 1875, will enable the sanitary authority to make bye-laws with respect to the management and charges for the use of any cemetery established by them, and in this manner to provide for the orderly conduct of all persons within its limits, for the regulation of graves, and for the payment of reasonable fees for interments therein.

It should be borne in mind, however, that such bye-laws must be made in conformity with the Public Health Act, and be confirmed by the central authority; and the President contemplates that the department shall hereafter frame a series of model bye-laws to be recommended for adoption.

In order to make further provision for the due maintenance and management of a cemetery, the recent statute incorporates the Cemeteries Clauses Act, 1847 (10 & 11 Vict. c. 65).

That Act forms one of a series of statutes passed in 1847, the object being in each case to comprise in one general Act the provisions usually contained in Acts of Parliament relating to matters of local improvement or administration. Several of these Acts, as well as other Consolidation Acts, were incorporated, either wholly or partly with the Public Health Act, 1875, and the particular Act referred to has previously been incorporated with some general and several local improvement Acts. Its provisions will now form part of the Public Health Act, 1875, and will apply, subject to the necessary qualifications, to all cemeteries acquired, constructed, or maintained by a sanitary authority under the new Act.

The President therefore thinks it right to direct the attention of the sanitary authority to the following obligations and powers imposed upon and exercisable by them under the incorporated enactments.

With respect to the Making of the Cemetery.

The cemetery is not to be constructed nearer to any dwelling-house than 200 yards, except with the consent of the owner and occupier.

The sanitary authority may build such chapels in the cemetery for the performance of burial services as they may think fit, and lay out and embellish the grounds of the cemetery.

The cemetery must be enclosed by substantial walls, or iron railings, of the height of eight feet at least.

The sanitary authority must keep the cemetery, and the buildings and fences thereof in complete repair and in good order and condition.

With respect to Burials.

The sanitary authority may set apart a portion of the cemetery for burials according to the rites of the Established Church, and the bishop of the diocese may, on the application of the sanitary authority, consecrate the portion so set apart.

A chapel, to be approved by the bishop, must be built on the consecrated part for the performance of the burial service of the Established Church.

A salaried chaplain is to be appointed to officiate in the consecrated part of the cemetery, the appointment and salary to be subject to the approval of the bishop.

The sanitary authority may set apart the whole or a portion of the unconsecrated part of the cemetery as a place of burial for persons not being members of the Established Church, and may allow in any chapel built in such unconsecrated part a burial service to be performed according to the rites of any church or congregation other than the Established Church.

With respect to exclusive rights of Burial and Monumental Inscriptions.

The sanitary authority may set apart portions of the cemetery for the purpose of granting exclusive rights of burial therein, and may sell the exclusive right of burial in such portions, and the right of placing

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any monument or gravestone in the cemetery or any tablet or monumental inscription on the walls of any chapel or other building in the cemetery.

It should be observed that the Act under consideration does not extend to the Metropolis, and it is scarcely necessary to point out that in other parts of the country where suitable cemeteries are in existence there can rarely be need for resorting to its provisions.

The President trusts, however, that in other localities the sanitary authorities will not hesitate to avail themselves of the important powers conferred by the Act, having regard to their serious obligations in the interest of the public health and to the responsibilities imposed upon them by the legislature.

Model bye-laws for cemeteries have also been issued. In the memorandum which accompanied these bye-laws the Secretary of the Board (Sir John Lambert) says :—

The combined effect of the enactments in section 141 of the Public Health Act, 1875, and in section 2 (1) of the Public Health (Interments) Act, 1879, is to enable a local authority to make bye-laws with respect to the management and charges for use of a cemetery provided under the latter Act. It is, however, to be observed that this power of making bye-laws is only one of several means which the local authority may employ for the proper control of their cemetery. For example, section 37 of the Cemeteries Clauses Act, 1847, which is incorporated with the Act of 1879, enables the local authority to appoint gravediggers and other servants necessary for the care and use of the cemetery. Where a gravedigger is appointed by the local authority, they may conveniently dispense with many regulations which might otherwise require to be embodied in bye-laws. It may be assumed that, as a servant of the local authority, the gravedigger will act in strict accordance with their directions as to such matters as the appointment of grave spaces, the dimensions of graves, and their separation by a sufficient thickness of undisturbed earth. These subjects may accordingly be regarded as outside the range of such bye-laws as will ordinarily be needed. At the same time it is important, for the reasons which are explained in the accompanying memorandum, that the local authority should give definite instructions to their servants as to the manner in which their duties are to be discharged.

The Board desire me to add that local authorities who may intend to adopt the model clauses as the basis of their bye-laws will, on application to the Board, be furnished with copies of those clauses, on foolscap paper, with a margin for annotations. These draft forms should be used in accordance with the instructions in the Circular of the 25th July, 1877.

Reference may also be made to the Memorandum issued by the Local Government Board on the sanitary requirements of cemeteries. This Memorandum will be found in *Glen's Local Government Orders*, at p. 507.

The provisions of 38 & 39 Vict. c. 55 extended to cemeteries.

2. (1) The provisions of the principal Act, as to a place for the reception of the dead before interment, in the principal Act called a mortuary, shall extend to a place for the interment of the dead, in this Act called a cemetery; and the purposes of the principal Act shall include the acquisition, construction, and maintenance of a cemetery.

(2) A local authority may acquire, construct, and maintain a cemetery either wholly or partly within or without their district, subject as to works without their district for the purpose of a cemetery to the provi-

sions of the principal Act as to sewage works by a local authority without their district. Section 2.

(3) A local authority may accept a donation of land for the purpose of a cemetery, and a donation of money or other property for enabling them to acquire, construct, or maintain a cemetery. 38 & 39 Vict. c. 55, ss. 32—34.

3. The Cemeteries Clauses Act, 1847, shall be incorporated with this Act. 10 & 11 Vict. c. 65, incorporated with this Act.

THE COMMONS ACT, 1879.

42 & 43 VICT. CHAP. 37.

AN ACT to amend the Commons Act, 1876.

[11th August, 1879.]

WHEREAS by section twenty-seven of the Commons Act, 1876, the surplus rents arising from recreation grounds shall be applied to all or any of the following purposes, and to no other purpose, that is to say, in improving the recreation grounds or any of them in the same parish or neighbourhood, or maintaining the drainage and fencing thereof, or in hiring or purchasing additional land for recreation grounds in the same parish or neighbourhood: 39 & 40 Vict. c. 56.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Commons Act, 1879. Short title.

2. The improving the field gardens, or any of them, to which the twenty-seventh section of the Commons Act, 1876, applies, in the same parish or neighbourhood, or maintaining the drainage and fencing thereof, shall be one of the purposes to which the surplus rents arising from recreation grounds shall be applied. Application of surplus rents of recreation grounds. 39 & 40 Vict. c. 56.

The 39 & 40 Vict. c. 56, s. 27, provides as follows:—Whereas by section 73 of the Inclosure Act, 1845, the surplus rents arising from recreation grounds are applicable in aid of the rates for the repair of the public highways in the parish or respective parishes in which the said grounds are situate, and by section 112 of the same Act the surplus rents arising from field gardens are payable to the overseers of the poor in aid of the poor rates of the parish: And whereas it is expedient to amend the said provisions: Be it enacted, that the surplus rents arising from recrea-

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tion grounds shall, from and after the passing of this Act, cease to be applied in manner provided by the said 73rd section, and shall be applied to all or any of the following purposes, and to no other purpose; that is to say, in improving the recreation grounds, or any of them, in the same parish or neighbourhood, or maintaining the drainage and fencing thereof, or in hiring or purchasing additional land for recreation grounds in the same parish or neighbourhood; and the surplus rents arising from field gardens shall, from and after the passing of this Act, cease to be applied in manner provided by the said 112th section, and shall be applied to all or any of the following purposes, and to no other purpose; that is to say, in improving the field gardens or any of them in the same parish or neighbourhood, or maintaining the drainage and fencing thereof, or in hiring or purchasing additional land for field gardens in the same parish or neighbourhood.

The trustees of any recreation ground and the allotment wardens of any field gardens may, with the approval of the Inclosure Commissioners, sell all or any part of the allotment vested in them, and out of the proceeds of such sale purchase any fit and suitable land in the same parish or neighbourhood: Provided that the land so purchased shall be held in trust for the purposes for which the allotment so sold as aforesaid was allotted, and for no others; and provided that the Inclosure Commissioners shall not sanction any such sale as aforesaid unless and until it shall be proved to their satisfaction that land more suitable for the purposes for which the allotment proposed to be sold was allotted may and will be forthwith purchased; and the proceeds of any such sale shall be paid to the Inclosure Commissioners, and shall remain in their hands until such purchase of other land as aforesaid.

The powers and duties of the Enclosure Commissioners are now transferred to the Board of Agriculture (48 & 49 Vict. c. 38, s. 48; 52 & 53 Vict. c. 30, s. 2).

THE ELEMENTARY EDUCATION (INDUSTRIAL SCHOOLS) ACT, 1879.

42 & 43 VICT. CHAP. 48.

AN ACT to amend the Law respecting the Powers of School Boards in relation to Industrial Schools.

[11th August, 1879.]

33 & 34 Vict. c. 75, s. 28, 36 & 37 Vict. c. 86, s. 10, and 39 & 40 Vict. c. 79, s. 15.

WHEREAS under the Elementary Education Acts, 1870 and 1873, and the Elementary Education Act, 1876, a school board have power, with the consent of one of Her Majesty's Principal Secretaries of State, to establish, build, and maintain industrial schools, and to spread the payment of the expense of such establishment and building over a number of years not exceeding fifty, and to borrow money for that purpose:

29 & 30 Vict. c. 118, s. 12.

And whereas a school board, under the said Acts, have the same power as is given to a prison authority by section twelve of the Industrial Schools Act, 1866, to contribute money towards the alteration, enlargement, or rebuilding of an industrial school, or towards the establishment or building of an industrial school, or towards the purchase of land required for the use or for the site of an industrial school:

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And whereas under the Reformatory and Industrial Schools Act Amendment Act, 1872, section twelve of the Industrial Schools Act, 1866, is extended to authorise the prison authority themselves to undertake any thing towards which they are authorised by that section to contribute: 35 & 36 Vict. c. 21. 29 & 30 Vict. c. 118, s. 12.

And whereas doubts have arisen whether a school board have power to undertake themselves anything towards which they are authorised as above mentioned to contribute or have power to spread the payment of the amount of any such contribution or of the cost of any such undertaking over a number of years, and to borrow money for that purpose, and it is expedient to remove such doubts:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

The text of the several sections referred to in the above preamble is as follows:—

33 & 34 Vict. c. 75, s. 28.—A school board may, with the consent of the Education Department, establish, build, and maintain a certified industrial school within the meaning of the Industrial Schools Act, 1866, and shall for that purpose have the same powers as they have for the purpose of providing sufficient school accommodation for their district: Provided that the school board, so far as regards any such industrial school, shall be subject to the jurisdiction of one of Her Majesty's Principal Secretaries of State in the same manner as the managers of any other industrial school are subject; and such school shall be subject to the provisions of the said Act, and not of this Act.

36 & 37 Vict. c. 86, s. 10.—The principal Act and Acts referring thereto shall be construed as if, for section 57, which is repealed by this Act, there were substituted the following section:—

Where a school board have incurred or require to incur any expense, either—

(*a*) In providing or enlarging a schoolhouse; or

(*b*) In paying off any debt charged on a schoolhouse provided by them, or on any land acquired by them by gift, transfer, purchase, or otherwise for the purposes of this Act; or

(*c*) In any works of improving or fitting up a schoolhouse which, in the opinion of the Education Department, ought by reason of the permanent character of such works to be spread over a term of years,

they may, with the consent of the Education Department, spread the payments over such number of years not exceeding fifty, as may be sanctioned by the Education Department, and may, with the like consent, for that purpose borrow money on security of the school fund and local rate, and may charge that fund and the local rate with the payment of the principal and interest due in respect of the loan. They may, if they so agree with the mortgagee, pay the amount borrowed with the interest by equal annual instalments not exceeding fifty, and if they do not so agree they shall annually set aside one fiftieth of the sum borrowed as a sinking fund: Provided that no such consent of the Education Department shall be granted unless proof be given to their

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satisfaction that the additional school accommodation which it is proposed to supply is required in order to provide for the educational wants of the district:

For the purpose of such borrowing the clauses of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, shall be incorporated with this Act; and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the school board which is borrowing shall be deemed to be the commissioners:

The Public Works Loan Commissioners may, on the recommendation of the Education Department, lend any money required under this section on the security of the school fund and local rate without requiring any further or other security, such loan to be repaid within such number of years not exceeding fifty, as may be recommended by the Education Department, and to bear interest at the rate of three-and-a-half per cent. per annum.

The said substitution shall not affect anything done before the passing of this Act, except that anything done before the passing of this Act which would have been legal if the said substitution had been made shall be legal.

39 & 40 Vict. c. 79, s. 15.—The consent of one of Her Majesty's Principal Secretaries of State, and not of the Education Department, shall be required for the establishing, building, and maintaining of a certified industrial or certified day industrial school by a school board, and to the spreading of the payment of the expense of such establishment and building over a number of years not exceeding fifty, and to the borrowing of money for that purpose; and for the purpose of such borrowing section 10 of the Elementary Education Act, 1873, shall be held to apply to the loan in like manner as if one of Her Majesty's Principal Secretaries of State were substituted therein for the Education Department, and such establishment and building shall be deemed to be a work for which a school board is authorised to borrow within the meaning of the first schedule to the Public Works Loans Act, 1875.

29 & 30 Vict. c. 118, s. 12.—In England a prison authority may from time to time contribute such sums of money, and on such conditions as they think fit, towards the alteration, enlargement, or rebuilding of a certified industrial school; or towards the support of the inmates of such a school; or towards the management of such a school; or towards the establishment or building of a school intended to be a certified industrial school; or towards the purchase of land required either for the use of an existing certified industrial school, or for the site of a school intended to be a certified industrial school; provided—

First.—That not less than fourteen days' (36 & 37 Vict. c. 86, s. 14) previous notice of the intention of the prison authority to take into consideration the making of such contribution, at a time and place to be mentioned in such notice, be given by advertisement in some one or more public newspaper or newspapers circulated within the district of the county or borough, and also in the manner in which notices stating the business to be transacted by the prison authority are usually given.

Secondly.—That where the prison authority is the council of a borough, the order for the contribution be made at a special meeting of the council.

Thirdly.—That where the contribution is for alteration, enlargement, rebuilding, establishment, or building of a school or intended school, or for purchase of land, the approval of the Secretary of State be previously given for that alteration, enlargement, rebuilding, establishment, building, or purchase.

35 & 36 Vict. c. 21.—Whereas by section 12 of the Industrial Schools Act, 1866, it is provided that a prison authority in England may from time

to time *contribute* such sums of money, and on such conditions, as they think fit, towards the alteration, enlargement, or rebuilding of a certified industrial school, or towards the support of the inmates of such school, or towards the management of such a school, or towards the establishment or building of a school intended to be a certified industrial school, or towards the purchase of land required either for the use of an existing certified industrial school, or for the site of a school intended to be a certified industrial school, subject to the provisoes therein contained: Be it enacted, that the said section shall extend to authorise the prison authority themselves to *undertake* anything towards which they are authorised by that section to contribute, and the Industrial Schools Act, 1866, shall be construed as if in the said section, so far as it relates to England, the expressions "contribute towards" and "contribution" included respectively "undertake" and "undertaking;" and the expenses of a prison authority in England incurred in pursuance of this section shall be defrayed accordingly.

Preamble.

NOTE.

1. This Act may be cited as the Elementary Education (Industrial Schools) Act, 1879. Short title.

This Act and the Elementary Education Acts, 1870 and 1873, and the Elementary Education Act, 1876, may be cited together as the Elementary Education Acts, 1870 to 1879. 33 & 34 Vict. c. 75. 36 & 37 Vict. c. 86. 39 & 40 Vict. c. 79.

2. A school board shall have power themselves to undertake any thing towards which they are authorised by the Industrial Schools Act, 1866, as applied by the Elementary Education Acts, 1870 and 1873, and the Elementary Education Act, 1876, or any of them, to contribute, subject nevertheless to the like consent as is required in the case of any such contribution. Extension to school board of 29 & 30 Vict. c. 118. 33 & 34 Vict. c. 75. 36 & 37 Vict. c. 86. 39 & 40 Vict. c. 75.

The things which a school board may now undertake by virtue of this section appear from the sections of the several Acts quoted in the note to the preamble.

3. Where a school board resolve to contribute any sum of money towards, or to undertake the cost of the alteration, enlargement, or rebuilding, but not of the furnishing of an industrial school, or the establishment or building, but not of the furnishing of a school intended to be an industrial school, or the purchase of land required either for the use of an existing industrial school, or for the site of a school intended to be an industrial school, such school board, with the consent of one of Her Majesty's Principal Secretaries of State, shall have the same power of spreading the payment of the sums so contributed, or of the cost of such undertaking, over a number of years, and of borrowing money for that purpose, as they have in the case where they resolve to establish an industrial school; and the provisions of the Elementary Education Acts, 1870 and 1873, and the Elementary Education Act, 1876, and the Public Works Loans Act, 1875, shall apply accordingly. Power of school board to borrow for contribution towards, or undertaking cost of enlarging, &c., an industrial school. 33 & 34 Vict. c. 75. 36 & 37 Vict. c. 86. 39 & 40 Vict. c. 79. 38 & 39 Vict. c. 89.

Section 3. For the purposes of this Act an industrial school means a certified industrial school and a certified day industrial school.

The power to spread the repayment over a number of years and to borrow money here referred to is conferred by 36 & 37 Vict. c. 86, s. 10, set out in the notes to the preamble. Under the Public Works Loans Act, 1875, 38 & 39 Vict. c. 89, s. 11, the sum borrowed will be repayable by instalments, by annuity or otherwise.

Power of guardians to contribute to maintenance of child in industrial school.

4. Where a child is ordered upon complaint made by a school attendance committee to be sent to a certified industrial school, the council, guardians, or sanitary authority appointing such committee shall have, on the recommendation of the committee, the same power of contributing toward the maintenance of such child in the said school as if they were a school board, and the contribution by such guardians shall require the like consent as is required under section thirty-one of the Elementary Education Act, 1876, to any other expense incurred by a school attendance committee.

9 & 40 Vict. 79, s. 31.

The expenses of any such contribution shall be paid in like manner as the expenses of the school attendance committee, on whose recommendation the contribution is made, are paid in pursuance of the Elementary Education Act, 1876.

& 40 Vict. 79.

By 33 & 34 Vict. c. 75, s. 27, a school board have the same power of contributing money in the case of an industrial school as is given to a prison authority by 29 & 30 Vict. c. 118, s. 12.

The consent under 39 & 40 Vict. c. 79, s. 31, is that of the council of the borough, or in the case of a committee appointed by guardians, that of the guardians and also that of the Local Government Board. The same section provides that the expenses of a school attendance committee shall be paid (1) where the committee is appointed by a council, out of the borough fund or borough rate; and (2) where the committee is appointed by a board of guardians, out of a fund to be raised out of the poor rate of the parishes in which the committee act, according to the rateable value of each parish. For the purpose of obtaining payment of such expenses, the board of guardians have the same powers as they have for the purpose of obtaining contributions to their common fund under the Acts relating to the relief of the poor. On the subject of these expenses the Circular Letter of the Local Government Board, dated the 15th September, 1877, may be referred to.

The parish of C. had no school board, but by order of the Education Department contributed to the schools of a neighbouring parish in the union of W., and it was called on to contribute a proportion of the expenses of the union attendance committee, including C. and other parishes in P. union. It was held that C. was liable to contribute: *Reg.* v. *Cumberland JJ.*, 51 L. J. M. C. 114; 47 L. T. (N.S.) 22; 47 J. P. 69.

Preamble.

THE SUMMARY JURISDICTION ACT, 1879.

42 & 43 VICT. CHAP. 49.

AN ACT to amend the Law relating to the Summary Jurisdiction of Magistrates. [11th August, 1879.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the Summary Jurisdiction Act, 1879. Short title.

This Act is only set out here in so far as it may possibly affect the procedure in such poor law cases as may come before courts of summary jurisdiction.

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PART I.

Court of Summary Jurisdiction.

4. Subject as in this Act mentioned, and notwithstanding any enactment to the contrary, where a court of summary jurisdiction has authority under this Act, or under any other Act, whether past or future, to impose imprisonment or to impose a fine for an offence punishable on summary conviction, that court may, in the case of imprisonment, impose the same without hard labour, and reduce the prescribed period thereof, or do either of such acts; and in the case of a fine, if it be imposed as in respect of a first offence, may reduce the prescribed amount thereof. Mitigation of punishment by court.

And where in the case either of imprisonment or a fine there is prescribed a requirement for the offender to enter into his recognizance and to find sureties for keeping the peace, and observing some other condition, or to do any of such things, the court may dispense with any such requirement or any part thereof.

And where a court of summary jurisdiction has authority under an Act of Parliament other than this Act, whether past or future, to impose imprisonment for an offence punishable on summary conviction, and has not authority to impose a fine for that offence, that court when adjudicating on such offence may, notwithstanding, if the court think that the justice of the case will be better met by a fine than by imprisonment, impose a fine not exceeding twenty-five pounds, and not being of such an

Section 4.

amount as will subject the offender under the provisions of this Act, in default of payment of the fine, to any greater term of imprisonment than that to which he is liable under the Act authorising the said imprisonment.

For the definition of the term "court of summary jurisdiction," see section 50, *post*, and the notes thereto.

The fine under the last paragraph of the above section is enforceable by distress, and in default of distress imprisonment without hard labour under 11 & 12 Vict. c. 43, ss. 19, 22 ; 21 & 22 Vict. c. 73, s. 5.

Scale of imprisonment for non-payment of money.

5. The period of imprisonment imposed by a court of summary jurisdiction under this Act, or under any other Act, whether past or future, in respect of the non-payment of any sum of money adjudged to be paid by a conviction, or in respect of the default of a sufficient distress to satisfy any such sum, shall, notwithstanding any enactment to the contrary in any past Act, be such period as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case the maximum fixed by the following scale ; that is to say,

Where the amount of the sum or sums of money adjudged to be paid by a conviction, as ascertained by the conviction,	The said period shall not exceed
Does not exceed ten shillings - - -	Seven days.
Exceeds ten shillings but does not exceed one pound - - - - -	Fourteen days.
Exceeds one pound but does not exceed five pounds - - - - -	One month.
Exceeds five pounds but does not exceed twenty pounds - - - - -	Two months.
Exceeds twenty pounds - - - -	Three months.

And such imprisonment shall be without hard labour, except where hard labour is authorised by the Act on which the conviction is founded, in which case the imprisonment may, if the court thinks the justice of the case requires it, be with hard labour, so that the term of hard labour awarded do not exceed the term authorised by the said Act.

The expression "sum of money adjudged to be paid by a conviction" includes costs, of which the amount is ascertained by such conviction. See section 49, *post*.

As to the maximum punishment of a child under 12, see section 15, *post*.

As to the reduction of the term of imprisonment when the amount adjudged has been reduced by payment or distress, see section 21, sub-sect. (4), *post*.

Sum recoverable by summary

6. Where under any Act, whether past or future, a sum of money claimed to be due is recoverable on complaint to a court

Section 6.

order to be recoverable as a civil debt.

of summary jurisdiction, and not on information, such sum shall be deemed to be a civil debt, and if recovered before a court of summary jurisdiction shall be recovered in the manner in which a sum declared by this Act to be a civil debt recoverable summarily is recoverable under this Act, and not otherwise; and the payment of any costs ordered to be paid by the complainant or defendant in the case of any such complaint shall be enforced in like manner as such civil debt, and not otherwise.

This is a very important section. When read with sections 35 and 47, *post*, it will be found to affect the procedure in many poor law cases. See the notes to these sections.

This section does not apply to fines or penalties for criminal offences even where by the terms of the Act imposing them they are to be recovered on complaint. See *Reg.* v. *Paget*, 8 Q. B. D. 151; 51 L. J. M. C. 9; 45 L. T. (N.S.) 794; 30 W. R. 336; 46 J. P. 151.

It was held that this section did not apply to poor rates, as justices sitting to enforce payment of poor rates were not a court of summary jurisdiction as defined by this Act (see section 50, post). *Reg.* v. *Price*, 5 Q. B. D. 300; 49 L. J. M. C. 49; 42 L. T. (N.S.) 539; 28 W. R. 615; 44 J. P. 248. And though the Summary Jurisdiction Act, 1884, section 7, has greatly extended the scope of the definition, yet it is expressly provided by section 10 of that Act (47 & 48 Vict. c. 43, *post*), that nothing therein shall alter the procedure for the recovery of, or any remedy for the non-payment of any poor rate, or of any rate or sum the payment of which is not adjudged by the conviction or order of a court of summary jurisdiction.

Payment by instalments of or security taken for payment of money.

7. A court of summary jurisdiction, by whose conviction or order any sum is adjudged to be paid, may do all or any of the following things; namely,—

(1) Allow time for the payment of the said sum; and

(2) Direct payment to be made of the said sum by instalments; and

(3) Direct that the person liable to pay the said sum shall be at liberty to give to the satisfaction of that court, or of such other court of summary jurisdiction, or such person as may be specified by that court, security with or without a surety or sureties for the payment of the said sum or of any instalment thereof, and such security may be given and enforced in manner provided by this Act.

Where a sum is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

A court of summary jurisdiction directing the payment of a sum or of an instalment of a sum may direct such payment to be made at such time or times, and in such place or places, and to

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such person or persons, as may be specified by the court; and every person to whom any such sum or instalment is paid, where not the clerk of the court of summary jurisdiction, shall as soon as may be account for and pay over the same to that clerk.

Provision as to costs in the case of small fines.

8. Where a fine adjudged by a conviction by a court of summary jurisdiction to be paid does not exceed five shillings, then, except so far as the court may think fit to expressly order otherwise, an order shall not be made for payment by the defendant to the informant of any costs; and the court shall, except so far as they think fit to expressly order otherwise, direct all fees payable or paid by the informant to be remitted or repaid to him; the court may also order the fine or any part thereof to be paid to the informant in or towards the payment of his costs.

* * * * *

Restriction on punishment of child for summary offence.

15. A child on summary conviction for an offence punishable on summary conviction under this Act, or under any other Act, whether past or future, shall not be imprisoned for a longer period than one month nor fined a larger sum than forty shillings.

Power of court to discharge accused without punishment.

16. If upon the hearing of a charge for an offence punishable on summary conviction under this Act, or under any other Act, whether past or future, the court of summary jurisdiction think that though the charge is proved the offence was in the particular case of so trifling a nature that it is inexpedient to inflict any punishment, or any other than a nominal punishment,—

(1) The court, without proceeding to conviction, may dismiss the information, and, if the court think fit, may order the person charged to pay such damages, not exceeding forty shillings, and such costs of the proceeding, or either of them, as the court think reasonable; or,

(2) The court upon convicting the person charged may discharge him conditionally on his giving security, with or without sureties, to appear for sentence when called upon, or to be of good behaviour, and either without payment of damages and costs, or subject to the payment of such damages and costs, or either of them, as the court think reasonable:

Provided that this section shall not apply to an adult convicted

in pursuance of this Act of an offence of which he has pleaded guilty, and of which he could not, if he had not pleaded guilty, be convicted by a court of summary jurisdiction. Section 16.

Right to claim trial by jury in case of offences otherwise triable summarily.

17. (1) A person when charged before a court of summary jurisdiction with an offence, in respect of the commission of which an offender is liable on summary conviction to be imprisoned for a term exceeding three months, and which is not an assault, may, on appearing before the court and before the charge is gone into but not aftewards, claim to be tried by a jury, and thereupon the court of summary jurisdiction shall deal with the case in all respects as if the accused were charged with an indictable offence and not with an offence punishable on summary conviction, and the offence shall as respects the person so charged be deemed to be an indictable offence, and, if the person so charged is committed for trial, or bailed to appear for trial, shall be prosecuted accordingly, and the expenses of the prosecution shall be payable as in cases of felony.

(2) A court of summary jurisdiction, before the charge is gone into in respect of an offence to which this section applies, for the purpose of informing the defendant of his right to be tried by a jury in pursuance of this section, shall address him to the following effect: "You are charged with an offence in respect "of the commission of which you are entitled, if you desire it, "instead of being dealt with summarily, to be tried by a jury; "do you desire to be tried by a jury?" with a statement, if the court think such statement desirable for the information of the person to whom the question is addressed, of the meaning of being dealt with summarily, and of the assizes or sessions (as the case may be) at which such person will be tried if tried by a jury.

(3) This section shall not apply to the case of a child unless the parent or guardian of the child is present; but the court shall ascertain whether the parent or guardian of the child is present, and if he is, shall address the above question to such parent or guardian, and the claim under this section may be made by such parent or guardian.

The above section has been held not to apply to a case where the offender is liable to a further term of imprisonment for not finding sureties after the expiration of the original term of three months imprisonment. *Williams v. Wynne*, 52 J. P. 344; 57 L. J. M. C. 30; 58 L. T. (N.S.) 283.

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Appeal from summary conviction

19. Where, in pursuance of any Act, whether past or future, any person is adjudged by a conviction or order of a court of

Section 19. to general or quarter sessions.

summary jurisdiction to be imprisoned without the option of a fine, either as a punishment for an offence, or, save as hereinafter mentioned, for failing to do or to abstain from doing any act or thing required to be done or left undone, and such person is not otherwise authorised to appeal to a court of general or quarter sessions and did not plead guilty, or admit the truth of the information or complaint, he may, notwithstanding anything in the said Act, appeal to a court of general or quarter sessions against such conviction or order:

Provided that this section shall not apply where the imprisonment is adjudged for failure to comply with an order for the payment of money, for the finding of sureties, for the entering into any recognizance, or for the giving of any security.

Court of summary jurisdiction to sit at a petty sessional or occasional court-house, &c.

20. (1) A case arising under this Act, or under any other Act, whether past or future, shall not be heard, tried, determined, or adjudged by a court of summary jurisdiction, except when sitting in open court.

(2) Open court means a petty sessional court-house or an occasional court-house.

* * * * *

(4) An occasional court-house means such police station or other place as is appointed (as herein-after provided) to be used as an occasional court-house.

(5) The justices of a petty sessional division of a county shall from time to time, at a sessions of which notice has been given to every justice of such division, appoint police stations or other places other than the petty sessional court-house, to be used as occasional court-houses, at which cases may be heard tried determined and adjudged, and they may from time to time at such a sessions as aforesaid vary any police station or place so appointed, and shall cause public notice to be given in such manner as they think expedient of every police station or place for the time being appointed to be used as an occasional court-house.

* * * * *

(7) Where a case arising under this Act, or under any other Act, whether past or future, is heard, tried, determined and adjudged by a court of summary jurisdiction sitting in an occasional court-house, the period of imprisonment imposed by

the conviction or order of such court shall not exceed fourteen days, and the sum adjudged to be paid by the conviction or order of such court shall not exceed twenty shillings; and a justice of the peace when sitting alone in a petty sessional court-house shall not have power to impose any greater term of imprisonment or adjudge any larger sum to be paid than is above mentioned. Section 20.

(8) An indictable offence dealt with summarily in pursuance of this Act shall not be heard, tried, determined or adjudged except by a petty sessional court sitting on some day appointed for hearing indictable offences, of which public notice has been given in such manner as to the justices of the petty sessional division seem expedient, or at some adjournment of such court.

(9) Any case arising under this Act, other than such indictable offence as aforesaid, and any case arising under any future Act which is triable by a court of summary jurisdiction, shall, unless it is otherwise prescribed, be heard, tried, determined and adjudged by a court of summary jurisdiction consisting of two or more justices.

(10) The Lord Mayor of the City of London, and any alderman of the said city, and any metropolitan or borough police magistrate or other stipendiary magistrate, when sitting in a court-house or place at which he is authorised by law to do alone any act authorised to be done by more than one justice of the peace, shall, for the purposes of this Act, be deemed to be a court of summary jurisdiction sitting in a petty sessional court-house, and is in this Act included in the expression "petty sessional court."

(11) A court of summary jurisdiction, when not a petty sessional court, may, without prejudice to any other power of adjournment which the court may possess, adjourn the hearing of any case to the next practicable sitting of a petty sessional court in the same manner in all respects as a justice is authorised to adjourn the hearing of a case under section sixteen of the Summary Jurisdiction Act, 1848. 11 & 12 Vict. c. 43.

Sub-sections (3) and (6) of this section, which contain the definitions of a petty sessional court-house and petty sessional court, are repealed by 52 & 53 Vict. c. 63, s. 41.

The provisions of this section as to the hearing of cases in open court will not apply to justices sitting to enforce payment of poor rates. See *Reg.* v. *Price*, and the notes to section 6, *ante*.

In a borough which had no separate commission of the peace the mayor and a county justice used to sit at the town hall where they held petty and

Section 20. special sessions. Since the passing of this Act, petty sessions had been held at the county hall only, but afterwards the justices again sat in the town hall. It was held that the town hall was a petty sessional court-house, being a place where justices were accustomed to assemble: *Jones* v. *Jones*, 51 J. P. 198.

NOTE.

Special provisions as to warrants of commitment for non-payment of sums of money, and as to warrants of distress.

21. (1) A court of summary jurisdiction to whom application is made either to issue a warrant of distress for any sum adjudged to be paid by a conviction or order, or to issue a warrant for committing a person to prison for non-payment of a sum of money adjudged to be paid by a conviction, or in the case of a sum not a civil debt by an order, or for default of sufficient distress to satisfy any such sum, may, if the court deem it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as to the court may seem just.

(2) The wearing apparel and bedding of a person and his family, and, to the value of five pounds, the tools and implements of his trade, shall not be taken under a distress issued by a court of summary jurisdiction.

(3) Where a person is adjudged by the conviction of a court of summary jurisdiction, or in the case of a sum not a civil debt by an order of such court, to pay any sum of money, and on default of payment of such sum a warrant of distress is authorised to be issued, and it appears to the court of summary jurisdiction to whom application is made to issue such warrant that such person has no goods whereon to levy the distress, or that in the event of a warrant of distress being issued his goods will be insufficient to satisfy the money payable by him, or that the levy of the distress will be more injurious to him or his family than imprisonment, such court, instead of issuing such warrant of distress, may, if it think fit, order the said person on non-payment of the said sum to be imprisoned for any period not exceeding the period for which he is liable under such conviction or order to be imprisoned in default of sufficient distress.

(4) Where on application to a court of summary jurisdiction to issue a warrant for committing a person to prison for non-payment of a sum adjudged to be paid by a conviction of any court of summary jurisdiction, or in the case of a sum not a civil debt by an order of such court, or for default of sufficient distress to satisfy any such sum, it appears to the court to whom the application is made that either by payment of part of the said sum, whether in the shape of instalments or otherwise, or by the net proceeds of the distress, the amount of the sum so

adjudged has been reduced to such an extent that the unsatisfied balance, if it had constituted the original amount adjudged to be paid by the conviction or order, would have subjected the defendant to a maximum term of imprisonment less than the term of imprisonment to which he is liable under such conviction or order, the court shall, by its warrant of commitment, revoke the term of imprisonment, and order the defendant to be imprisoned for a term not exceeding such less maximum term, instead of for the term originally mentioned in the conviction or order. Section 21.

Supplemental Provisions.

Register of court of summary jurisdiction.

22. (1) The clerk of every court of summary jurisdiction shall keep a register of the minutes or memorandums of all the convictions and orders of such court, and of such other proceedings as are directed by a rule under this Act to be registered, and shall keep the same with such particulars and in such form as may be from time to time directed by a rule under this Act.

(2) Such register, and also any extract from such register certified by the clerk of the court keeping the same to be a true extract, shall be *primâ facie* evidence of the matters entered therein for the purpose of informing a court of summary jurisdiction acting for the same county borough or place as the court whose convictions, orders and proceedings are entered in the register; but nothing in this section shall dispense with the legal proof of a previous conviction for an offence when required to be proved against a person charged with another offence.

(3) The register kept by any particular clerk, in pursuance of this section, may be distinguished by the name of his petty sessional division, or by such name or description as may be directed by a rule under this Act.

(4) The entries relating to each minute, memorandum, or proceeding shall be either entered or signed by the justice or one of the justices constituting the court by or before whom the conviction or order or proceeding referred to in the minute or memorandum was made or had, except that when a court of summary jurisdiction is not a petty sessional court a return signed as aforesaid, and made and entered in the register in manner provided by a rule under this Act, shall suffice.

(5) Every sum paid to the clerk of a court of summary jurisdiction in accordance with the Summary Jurisdiction Acts, and the appropriation of such sum, shall be entered and authenticated in such manner as may be from time to time directed by a rule under this Act.

Section 22.

(6) Every such register shall be open for inspection, without fee or reward, by any justice of the peace, or by any person authorised in that behalf by a justice of the peace or by a Secretary of State.

Regulations as to securities taken in pursuance of Act.

23. (1) A person shall give security under this Act, whether as principal or surety, either by the deposit of money with the clerk of the court, or by an oral or written acknowledgment of the undertaking or condition by which and of the sum for which he is bound, in such manner and form as may be for the time being directed by any rule made in pursuance of this Act, and evidence of such security may be provided by entry thereof in the register under this Act of proceedings of a court of summary jurisdiction or otherwise as may be directed by such rule.

(2) Any sum which may become due in pursuance of a security under this Act from a surety shall be recoverable summarily, in manner directed by this Act with respect to a civil debt, on complaint by a constable or by the clerk of the court directing such security to be given, or by some other person authorised for the purpose by that court or any other court of summary jurisdiction for the same county, borough, or place.

(3) A court of summary jurisdiction may enforce payment of any sum due by a principal in pursuance of a security under this Act which appears to such court to be forfeited, in like manner as if that sum were adjudged by a court of summary jurisdiction to be paid as a fine which the statute provides no mode of enforcing, if the security was given for a sum adjudged by a conviction, and in any other case in like manner as if it were a sum adjudged by a court of summary jurisdiction to be paid as a civil debt; provided that before a warrant of distress for the sum is issued, such notice of the forfeiture shall be served on the said principal, and in such manner as may be directed for the time being by rules under this Act, and subject thereto by the court authorising the security, or by any court to whom application is made for the issue of the warrant.

(4) Any sum paid by a surety on behalf of his principal in respect of a security under this Act, together with all costs, charges and expenses incurred by such surety in respect of that security, shall be deemed a civil debt due to him from the principal, and may be recovered before a court of summary jurisdiction in manner directed by this Act with respect to the recovery of a civil debt which is recoverable summarily.

(5) Where security is given under this Act for payment of a

sum of money, the payment of such sum shall be enforced by means of such security in substitution for other means of enforcing such payment. Section 23.

* * * * *

29. (1) The Lord High Chancellor of Great Britain may from time to time make, and when made, rescind, alter and add to, rules in relation to the following matters, or any of them; that is to say, Power of the Lord Chancellor to make rules.

(*a*) The giving security under this Act; and

(*b*) The forms to be used under the Summary Jurisdiction Acts, or any of them, including the forms of any recognizance mentioned in this Act; and

(*c*) The costs and charges payable under distress warrants issued by a court of summary jurisdiction; and

(*d*) Adapting to the provisions of this Act and of the Summary Jurisdiction Act, 1848, the procedure before courts of summary jurisdiction under any Act passed before the Summary Jurisdiction Act, 1848; and 11 & 12 Vict. c. 43. 11 & 12 Vict. c. 43.

(*e*) Regulating the form of the account to be rendered by clerks of courts of summary jurisdiction of fines, fees and other sums received by them, and providing for the discontinuance of any existing account rendered unnecessary by the aforesaid account; and

(*f*) Any other matter in relation to which rules are authorised or required to be made under or for the purpose of carrying into effect this Act.

(2) The Lord Chancellor may, in the exercise of the power given him by this section, annul, alter, or add to any forms contained in the Summary Jurisdiction Act, 1848, or any forms relating to summary proceedings contained in any other Act. 11 & 12 Vict. c. 43.

(3) Any rule purporting to be made in pursuance of this section shall be laid before both Houses of Parliament as soon as may be after it is made, if Parliament be then sitting, or if not then sitting, within one month after the commencement of the then next session of Parliament, and shall be judicially noticed.

* * * * *

The rules and forms now in force are those issued in July, 1886.

Section 31.

PART II.

Amendment of Procedure.

Procedure on appeal to general or quarter sessions.

31. Where any person is authorised . . . to appeal from the conviction or order of a court of summary jurisdiction to a court of general or quarter sessions, he may appeal to such court, subject to the conditions and regulations following:

(1) The appeal shall be made to the prescribed court of general or quarter sessions, or if no court is prescribed, to the next practicable court of general or quarter sessions having jurisdiction in the county, borough, or place for which the said court of summary jurisdiction acted, and holden not less than fifteen days after the day on which the decision was given upon which the conviction or order was founded; and

(2) The appellant shall, within the prescribed time, or if no time is prescribed within seven days after the day on which the said decision of the court was given, give notice of appeal by serving on the other party and on the clerk of the said court of summary jurisdiction notice in writing of his intention to appeal, and of the general grounds of such appeal; and

(3) The appellant shall, within the prescribed time, or if no time is prescribed within three days after the day on which he gave notice of appeal, enter into a recognizance before a court of summary jurisdiction, with or without a surety or sureties as that court may direct, conditioned to appear at the said sessions and to try such appeal, and to abide the judgment of the court of appeal thereon, and to pay such costs as may be awarded by the court of appeal, or the appellant may, if the court of summary jurisdiction before whom the appellant appears to enter into a recognizance think it expedient, instead of entering into a recognizance, give such other security, by deposit of money with the clerk of the court of summary jurisdiction or otherwise, as that court deem sufficient; and

(4) Where the appellant is in custody, the court of summary jurisdiction before whom the appellant appears to enter into a recognizance may, if the court think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody; and

Section 31.

(5) The court of appeal may adjourn the hearing of the appeal, and upon the hearing thereof may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter, with the opinion of the court of appeal thereon, to a court of summary jurisdiction acting for the same county, borough, or place as the court by whom the conviction or order appealed against was made, or may make such other order in the matter as the court of appeal may think just, and may by such order exercise any power which the court of summary jurisdiction might have exercised, and such order shall have the same effect, and may be enforced in the same manner, as if it had been made by the court of summary jurisdiction. The court of appeal may also make such order as to costs to be paid by either party as the court may think just; and

(6) Whenever a decision is not confirmed by the court of appeal, the clerk of the peace shall send to the clerk of the court of summary jurisdiction from whose decision the appeal was made, for entry in his register, and also indorse on the conviction or order appealed against, a memorandum of the decision of the court of appeal, and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence of the said decision in every case where such copy or certificate would be sufficient evidence of such conviction or order; and

(7) Every notice in writing required by this section to be given by an appellant shall be in writing signed by him, or by his agent on his behalf, and may be transmitted as a registered letter by the post in the ordinary way, and shall be deemed to have been served at the time when it would be delivered in the ordinary course of the post.

This section now regulates all appeals from the conviction or order of a court of summary jurisdiction. See 47 & 48 Vict. c. 43, s. 6, *post*. It does not, however, apply to appeals against poor rates.

Upon the hearing of an appeal it appeared that two notices of appeal had been given within the time limited by the Act. The appellant elected to proceed upon the second, which was found to be bad for want of the prescribed recognizance. It was held that the first notice remained good, and that the appellant was entitled to proceed upon it after failing upon the second: *Reg.* v. *Recorder of Wolverhampton*, 35 W. R. 650.

Section 31.

NOTE.

The proceedings will not lapse by the death of the informant: *Reg.* v. *Truelove*, 5 Q. B. D. 336; 49 L. J. M. C. 57; 47 L. T. (N.S.) 240; 28 W. R. 413; 44 J. P. 346.

The court may award costs even in cases where there is no jurisdiction to hear the appeal: *Reg.* v. *Steel*, 2 Q. B. D. 42; 41 J. P. 245; *Pyne* v. *Mansfield*, 45 J. P. 130.

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Appeal from court of summary jurisdiction by special case.

33. (1) Any person aggrieved who desires to question a conviction, order, determination, or other proceeding of a court of summary jurisdiction, on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply to the court to state a special case setting forth the facts of the case and the grounds on which the proceeding is questioned, and if the court decline to state the case, may apply to the High Court of Justice for an order requiring the case to be stated.

(2) The application shall be made and the case stated within such time and in such manner as may be from time to time directed by rules under this Act, and the case shall be heard and determined in manner prescribed by rules of court made in pursuance of the Supreme Court of Judicature Act, 1875, and the Acts amending the same; and, subject as aforesaid, the Act of the session of the twentieth and twenty-first years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to improve the Administration of the Law so far as respects Summary Proceedings before Justices of the Peace," shall, so far as it is applicable, apply to any special case stated under this section, as if it were stated under that Act:

38 & 39 Vict. c. 77.

Provided that nothing in this section shall prejudice the statement of any special case under that Act.

There is no right of appeal under this section unless the directions contained in the rules with regard to the mode of application for a case have been observed. Therefore, where no application for a case had been made in writing to the justices who made the order appealed against, though a notice of application in writing had been made to their clerk, it was held that there was no power to state a case and that the appeal must be dismissed: *South Staffordshire Waterworks Company* v. *Stone*, 19 Q. B. D. 168; 56 L. J. M. C. 122; 57 L. T. (N.S.) 368; 36 W. R. 76; 51 J. P. 662; *Lockhart* v. *Mayor, &c., of St. Albans*, 21 Q. B. D. 188; 57 L. J. M. C. 118; 36 W. R. 800; 52 J. P. 420.

Justices stating a case under 20 & 21 Vict. c. 43, may be taken to have stated it under all their powers, including those of the above section: *Rochdale Building Society* v. *Mayor of Rochdale*, 51 J. P. 134.

Justices may state a case under this section on points of law arising upon complaints for recovery of poor rates, notwithstanding 47 & 48 Vict. c. 43, s. 10: *Reg.* v. *Lord Mayor of London*, 57 L. T. (N.S.) 491; 52 J. P. 70. And see *Sandgate Local Board* v. *Pledge*, 14 Q. B. D. 730; 52 L. T. (N.S.) 546; 33 W. R. 565; 49 J. P. 342.

Summary orders.

34. (1) Where a power is given by any future Act to a court of summary jurisdiction of requiring any person to do or abstain

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from doing any act or thing other than the payment of money, or of requiring any act or thing to be done or left undone other than the payment of money, and no mode is prescribed of enforcing such requisition, the court may exercise such power by an order or orders, and may annex to any such order any conditions as to time or mode of action which the court may think just, and may suspend or rescind any such order on such undertaking being given or condition being performed as the court may think just, and generally may make such arrangement for carrying into effect such power as to the court seems meet.

(2) A person making default in complying with an order of a court of summary jurisdiction in relation to any matter arising under any future Act other than the payment of money, shall be punished in the prescribed manner, or if no punishment is prescribed, may in the discretion of the court be ordered to pay a sum (to be enforced as a civil debt recoverable summarily under this Act) not exceeding one pound for every day during which he is in default, or to be imprisoned until he has remedied his default:

Provided that a person shall not, for non-compliance with the requisition of a court of summary jurisdiction, whether made by one or more orders, to do or abstain from doing any act or thing, be liable under this section to imprisonment for a period or periods amounting in the aggregate to more than two months, or to the payment of any sums exceeding in the aggregate twenty pounds.

Recovery of civil debts in court of summary jurisdiction.

35. Any sum declared by this Act, or by any future Act, to be a civil debt, which is recoverable summarily, or in respect of the recovery of which jurisdiction is given by such Act to a court of summary jurisdiction, shall be deemed to be a sum for payment of which a court of summary jurisdiction has authority by law to make an order on complaint in pursuance of the Summary Jurisdiction Acts: Provided as follows:—

(1) A warrant shall not be issued for apprehending any person for failing to appear to answer any such complaint; and

(2) An order made by a court of summary jurisdiction for the payment of any such civil debt as aforesaid or of any instalment thereof, or for the payment of any costs in the matter of any such complaint, whether ordered to be paid by the complainant or defendant, shall not, in

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default of distress or otherwise, be enforced by imprisonment, unless it be proved to the satisfaction of such court or of any other court of summary jurisdiction for the same county, borough, or place, that the person making default in payment of such civil debt, instalment, or costs either has, or has had since the date of the order, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same, and in any such case the court shall have the same power of imprisonment as a county court would for the time being have under the Debtors Act, 1869, for default of payment if such debt had been recovered in that court, but shall not have any greater power.

32 & 33 Vict. c. 62.

Proof of the means of the person making default may be given in such manner as the court to whom application is made for the commitment to prison think just, and for the purposes of such proof the person making default and any witnesses may be summoned and examined on oath according to the rules for the time being in force under this Act in relation to the summoning and examination of witnesses, or if no such rules are in force, to the rules for the like purpose made in pursuance of the Employers and Workmen Act, 1875.

38 & 39 Vict. c. 90.

As to what is a civil debt see section 6. See also section 47, *post*, and the Summary Jurisdiction Act, 1884, 47 & 48 Vict. c. 76, *post*.

The provisions of the Debtors Act, 1869, above referred to, are as follows:—

32 & 33 Vict. c. 62, s. 5.—Subject to the provisions hereinafter mentioned, and to the prescribed rules, any court may commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt or instalment of any debt due from him in pursuance of any order or judgment of that or any other competent court: Provided—

(1) That the jurisdiction by this section given of committing a person to prison shall, in the case of any court other than the superior courts of law and equity, be exercised only subject to the following restrictions; that is to say,

(*a*) Be exercised only . . . by an order made in open court, and showing on its face the ground on which it is issued. . . .

(2) That such jurisdiction shall only be exercised where it is proved to to the satisfaction of the court that the person making default either has or has had since the date of the order or judgment the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same. Proof of the means of the person making default may be given in such manner as the court thinks just, and for the purposes of such proof the debtor, and any witnesses, may be summoned and examined upon oath according to the prescribed rules. For the purposes of this section any court may direct any debt due from any person in pursuance of any order or judgment of that or any other competent court to be paid by instalments, and

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may from time to time rescind or vary such order. No imprisonment under this section shall operate as a satisfaction or extinguishment of any debt or demand or cause of action, or deprive any person of any right to take out execution against the lands, goods, or chattels of the person imprisoned, in the same manner as if such imprisonment had not taken place. Any person imprisoned under this section shall be discharged out of custody upon a certificate, signed in the prescribed manner, to the effect that he has satisfied the debt or instalment of a debt in respect of which he was imprisoned, together with the prescribed costs (if any).

The rules now in force relating to civil debts are those of the 16th July, 1886, and are as follows:—

19. In the case of a claim for a civil debt recoverable summarily, the particulars of the claim shall, unless embodied in the summons, be annexed to and, if so annexed, shall be deemed part of the summons.

20. An order of commitment under section 35 of the Summary Jurisdiction Act, 1879, shall not be made unless a summons to appear and be examined on oath (hereinafter called a judgment summons) has been served on the judgment debtor.

21. The judgment summons shall, whenever it is practicable, be served personally on the judgment debtor, but if it is made to appear on oath to a court of summary jurisdiction that prompt personal service is for any reason impracticable, the court may make such order for substituted or other service as the court may think just.

22. A judgment may issue although no distress warrant has been applied for, and its service, where made out of the jurisdiction of the court of summary jurisdiction issuing the summons, may be proved by affidavit or solemn declaration.

23. A judgment summons shall be served not less than two clear days before the day on which the judgment debtor is required to appear.

24. The hearing of a judgment summons may be adjourned from time to time.

25. Any witness may be summoned to prove the means of the judgment debtor, in the same manner as witnesses are summoned to give evidence on the hearing of a complaint.

26. An order of commitment made under section 35 of the Summary Jurisdiction Act, 1879, shall, on whatever day it is issued, bear date on the day on which it is made.

27. When an order of commitment for non-payment of money is issued, the defendant may, at any time before he is delivered into the custody of the governor of the prison, pay to the officer holding the order the amount indorsed thereon as that on the payment of which he may be discharged, and on receiving that amount the officer shall discharge the defendant, and shall forthwith pay over the amount to the clerk of the court of summary jurisdiction which made the order.

28. The sum indorsed on the order of commitment as that on payment of which the prisoner may be discharged may be paid to the clerk of the court of summary jurisdiction from which the commitment order was issued or to the governor of the prison in whose custody the prisoner is. Where it is paid to the clerk he shall sign a certificate of the payment, and on receiving the certificate by post or otherwise the governor of the prison in whose custody the prisoner then is shall forthwith discharge the prisoner. Where it is paid to the governor of the prison he shall, on payment to him of that amount, with costs sufficient to pay for sending the amount by post-office order or otherwise to the court of summary jurisdiction under the order of which the prisoner was committed, sign a certificate of the payment, and discharge the prisoner, and forthwith transmit the sum so received to the clerk of the said court.

29. All costs incurred by the plaintiff in endeavouring to enforce an

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order shall, unless the court shall otherwise order, be deemed to be due in pursuance of the order as if it were made under section 5 of the Debtors Act, 1869.

It has been held that a debtor cannot be committed more than once for payment of the same debt, but there may be a separate committal for non-payment of each instalment when the debt is ordered to be paid by instalments: *Evans* v. *Willes*, 45 L. J. Q. B. 420; 24 W. R. 883; 40 J. P. 552.

A county court judge sat for the purpose of hearing summonses for committal, and for all business except jury cases, in a small room which he used at other times as his private room; it communicated with a larger room, where was the usual raised bench and jury box, by a door which was kept open during the hearing of these summonses, and the names of the parties were, if necessary, called in the larger room. The public had access to the smaller room as well as to the larger. It was held that orders for committal made under these circumstances were not made in open court, and could not be enforced: *Kenyon* v. *Eastwood*, 57 L. J. Q. B. 455.

Where the judge made an order to commit a defendant, but directed that the warrant should be suspended if the debtor paid instalments of 4*l.* a month, the first payment to be made in fourteen days, it was held that the order was in reality an order for commitment in respect of the past default in payment of the 20*l.*, and not an anticipatory order in respect of any future default, and that the order was valid: *Stonor* v. *Fowle*, 13 App. Cas. 20; 57 L. J. Q. B. 387; 58 L. T. (N.S.) 1; 36 W. R. 743; 52 J. P. 228.

Summons of witness when out of the jurisdiction of a court of summary jurisdiction.

36. Where a court of summary jurisdiction for any county, borough, or place would have power to issue a summons to a witness, if such witness were within the said county, borough, or place, and such witness is believed to be within some other county, borough, or place in England, such court may issue a summons to such witness in like manner as if such witness were within the jurisdiction of such court; and any court of summary jurisdiction for the county, borough, or place in which the witness may be, or be believed to be, may, on proof on oath, or such solemn declaration as provided by this Act, of the signature to the summons, indorse the summons, and the witness, on service of the summons so indorsed, and on payment or tender of a reasonable amount for his expenses, shall obey the summons, and in default shall be liable to be apprehended or otherwise proceeded against either in the county, borough, or place in which the summons was issued, or in that in which the witness may happen to be, in manner directed by the Summary Jurisdiction Act, 1848, as if such witness had been duly summoned by a court of summary jurisdiction for the county, borough, or place in which such witness is apprehended or proceeded against.

11 & 12 Vict. c. 43.

The provisions of this Act as to proof by declaration are contained in section 41, *post*.

Summons or warrant not avoided by

37. A warrant or summons issued by a justice of the peace under the Summary Jurisdiction Act, 1848, or any other Act,

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whether past or future, or otherwise, shall not be avoided by reason of the justice who signed the same dying or ceasing to hold office.

death of justice, &c. 11 & 12 Vict. c. 43.

38. A person taken into custody for an offence without a warrant shall be brought before a court of summary jurisdiction as soon as practicable after he is so taken into custody, and if it is not or will not be practicable to bring him before a court of summary jurisdiction within twenty-four hours after he is so taken into custody, a superintendent or inspector of police, or other officer of police of equal or superior rank, or in charge of any police station, shall inquire into the case, and, except where the offence appears to such superintendent, inspector or officer to be of a serious nature, shall discharge the prisoner, upon his entering into a recognizance, with or without sureties, for a reasonable amount, to appear before some court of summary jurisdiction at the day, time, and place named in the recognizance.

Bail of person arrested without a warrant.

Borough constables have wider powers of taking bail than are conferred by the above section. See the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, s. 227. See also 47 & 48 Vict. c. 43, s. 9, *post*.

39. The following enactments shall apply to proceedings before courts of summary jurisdiction; (that is to say,)

Provisions as to proceedings, &c.

1. The description of any offence in the words of the Act, or any order, bye-law, regulation, or other document creating the offence, or in similar words, shall be sufficient in law; and
2. Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany in the same section the description of the offence in the Act, order, bye-law, regulation, or other document creating the offence, may be proved by the defendant, but need not be specified or negatived in the information or complaint, and, if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant; and
3. A warrant of commitment shall not be held void by reason of any defect therein, if it be therein alleged that the offender has been convicted or ordered to do or abstain from doing any act or thing required to be done or left undone, and there is a good and valid conviction or order to sustain the same; and

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4. A warrant of distress shall not be deemed void by reason only of any defect therein, if it be therein alleged that a conviction or order has been made, and there is a good and valid conviction or order to sustain the same, and a person acting under a warrant of distress shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant, or of any irregularity in the execution of the warrant, but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in the execution of a warrant of distress, so however that if amends are tendered before action brought, and if the action is brought are paid into court in the action, and the plaintiff does not recover more than the sum so tendered and paid into court, the plaintiff shall not be entitled to any costs incurred after such tender, and the defendant shall be entitled to costs, to be taxed as between solicitor and client; and

5. All forfeitures not pecuniary which are incurred in respect of an offence triable by a court of summary jurisdiction, or which may be enforced by a court of summary jurisdiction, may be sold or disposed of in such manner as the court having cognizance of the case or any other court of summary jurisdiction for the same county borough or place may direct, and the proceeds of such sale shall be applied in the like manner as if the proceeds were a fine imposed under the Act on which the proceeding for the forfeiture is founded.

Case from quarter sessions without certiorari.

40. A writ of certiorari or other writ shall not be required for the removal of any conviction, order, or other determination, in relation to which a special case is stated by a court of general or quarter sessions for obtaining the judgment or determination of a superior court.

The practice now is that the clerk of the peace on receiving notice from the party requiring it should send up the case to the Crown Office: *Clark v. Aldcrbury Union*, 29 W. R. 331. As to the recognizances which must be entered into by the party proceeding upon a special case, see the Crown Office Rules, Nos. 36—38.

Proof by declaration of service of process, handwriting, &c.

41. In a proceeding within the jurisdiction of a court of summary jurisdiction, without prejudice to any other mode of proof, service on a person of any summons, notice, process, or document required or authorised to be served, and the hand

writing and seal of any justice of the peace or other officer or person on any warrant, summons, notice, process, or document, may be proved by a solemn declaration taken before a justice of the peace, or before a commissioner to administer oaths in the Supreme Court of Judicature, or before a clerk of the peace or a registrar of a county court; and any declaration purporting to be so taken shall, until the contrary is shown, be sufficienf proof of the statements contained therein, and shall be received in evidence in any court or legal proceeding, without proof of the signature or of the official character of the person or persons taking or signing the same; and the fee, if any, for taking such declaration shall be such sum, not exceeding one shilling, as may be directed by rules made in pursuance of this Act, and any such fee shall be costs in the matter or proceeding to which it relates. Section 41.

The declaration may be in the form provided by a rule under this Act, and if any declaration made under this section is untrue in any material particular, the person wilfully making such false declaration shall be guilty of wilful and corrupt perjury.

Recognizances taken out of court.

42. When a court of summary jurisdiction has fixed, as respects any recognizance, the amount in which the principal and the sureties (if any) are to be bound, the recognizance, notwithstanding anything in this or any other Act, need not be entered into before such court, but may, subject to any rules made in pursuance of this Act, be entered into by the parties before any other court of summary jurisdiction or before any clerk of a court of summary jurisdiciion, or before a superintendent or inspector of police or other officer of police of equal or superior rank or in charge of any police station, or where any of the parties is in prison, before the governor or other keeper of such prison; and thereupon all the consequences of law shall ensue, and the provisions of this Act with respect to recognizances taken before a court of summary jurisdiction shall apply, as if the recognizance had been entered into before the said court as heretofore by law required.

Procedure on the execution of distress warrants.

43. The following regulations shall be enacted with repects to warrants of distress issued by a court of summary jurisdiction :

(1) A warrant of distress shall be executed by or under the direction of a constable; and

(2) Save so far as the person against whom the distress is levied otherwise consents in writing, the distress shall be sold by public auction, and five clear days at the

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least shall intervene between the making of the distress and the sale, and where written consent is so given as aforesaid the sale may be made in accordance with such consent; and

(3) Subject as aforesaid, the distress shall be sold within the period fixed by the warrant, and if no period is so fixed then within the period of fourteen days from the date of the making of the distress, unless the sum for which the warrant was issued, and also the charges of taking and keeping the said distress, are sooner paid; and

(4) Subject to any directions to the contrary given by the warrant of distress, where the distress is levied on household goods the goods shall not, except with the consent in writing of the person against whom the distress is levied, be removed from the house until the day of sale, but so much of the goods shall be impounded as are in the opinion of the person executing the warrant sufficient to satisfy the distress, by affixing to the articles impounded a conspicuous mark; and any person removing any goods so marked, or defacing or removing the said mark, shall on summary conviction be liable to a fine not exceeding five pounds; and

(5) Where a person charged with the execution of a warrant of distress wilfully retains from the produce of any goods sold to satisfy the distress, or otherwise exacts, any greater costs and charges than those to which he is for the time being entitled by law, or makes any improper charge, he shall be liable on summary conviction to a fine not exceeding five pounds; and

(6) A written account of the costs and charges incurred in respect of the execution of any warrant of distress shall be sent by the constable charged with the execution of the warrant as soon as practicable to the clerk of the court of summary jurisdiction issuing the warrant; and it shall be lawful for the person upon whose goods the distress was levied, within one month after the levy of the distress, to inspect such account without fee or reward at any reasonable time to be appointed by the court, and to take a copy of such account; and

(7) A constable charged with the execution of a warrant of distress shall cause the distress to be sold, and may

deduct out of the amount realised by such sale all costs and charges actually incurred in effecting such sale, and shall render to the owner the overplus, if any, after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant; and Section 43.

(8) Where a person pays or tenders to the constable charged with the execution of a warrant of distress the sum mentioned in such warrant, or produces the receipt for the same of the clerk of the court of summary jurisdiction issuing the warrant, and also pays the amount of the costs and charges of such distress up to the time of such payment or tender, the constable shall not execute the warrant.

Return by order of court of property taken from prisoner.

44. Where any property has been taken from a person charged before a court of summary jurisdiction with any offence punishable either on indictment or on summary conviction, a report shall be made by the police to such court of summary jurisdiction of the fact of such property having been taken from the person charged and of the particulars of such property, and the court shall, if of opinion that the property or any portion thereof can be returned consistently with the interests of justice and with the safe custody of the person charged, direct such property, or any portion thereof, to be returned to the person charged or to such other person as he may direct.

* * * * *

General provisions as to local jurisdiction of courts of summary jurisdiction.

46. For the purposes of the trial of any offence punishable on summary conviction under this Act or under any other Act, whether past or future, the following provisions shall have effect—

(1) Where the offence is committed in any harbour, river, arm of the sea, or other water, tidal or other, which runs between or forms the boundary of the jurisdiction of two or more courts of summary jurisdiction, such offence may be tried by any one of such courts.

(2) Where the offence is committed on the boundary of the jurisdiction of two or more courts of summary jurisdiction, or within the distance of five hundred yards of any such boundary, or is begun within the jurisdiction of one court and completed within the jurisdiction of another court of summary jurisdiction, such offence may be tried by any one of such courts.

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(3) Where the offence is committed on any person or in respect of any property in or upon any carriage, cart, or vehicle whatsoever employed in a journey, or on board any vessel whatsoever employed in a navigable river, lake, canal, or inland navigation, the person accused of such offence may be tried by any court of summary jurisdiction through whose jurisdiction such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed; and where the side, bank, centre, or other part of the highway, road, river, lake, canal, or inland navigation along which the carriage, cart, vehicle, or vessel passed in the course of such journey or voyage is the boundary of the jurisdiction of two or more courts of summary jurisdiction, a person may be tried for such offence by any one of such courts.

(4) Any offence which is authorised by this section to be tried by any court of summary jurisdiction may be dealt with, heard, tried, determined, adjudged, and punished as if the offence had been wholly committed within the jurisdiction of such court.

PART III.

DEFINITIONS, SAVINGS, AND REPEAL OF ACTS.

Special Definitions.

Application of Act to sums leviable by distress or payable under order. 11 & 12 Vict. c. 43.

47. The provisions of this Act with respect to a sum adjudged to be paid by an order shall apply, so far as circumstances admit, to a sum in respect of which a court of summary jurisdiction can issue a warrant of distress without an information or complaint under the Summary Jurisdiction Act, 1848, in like manner as if the said sum were a civil debt; and the provisions of this Act with respect to the hearing, trying, determining, and adjudging of a case by a court of summary jurisdiction when sitting in open court shall apply to the hearing, trying, determining, and adjudging by a court of summary jurisdiction of an application for the issue of any such warrant.

The provisions of this Act with respect to the period of imprisonment to be imposed in respect of the non-payment of a sum of money adjudged to be paid by a conviction or in respect of the default of a sufficient distress to satisfy any such sum, shall apply to the period of imprisonment to be imposed in respect of the non-payment of any sum of money adjudged to be paid by an order of a court of summary jurisdiction or in respect of the default of a sufficient distress to satisfy any such

sum, where such sum is not a civil debt nor enforceable as a civil debt. Section 47.

This section seems to apply to cases where an order has been made for payment of periodical sums such as sums for maintenance of relations under 43 Eliz. c. 2. s. 7, contributions of parents under the Industrial or Reformatory Schools Acts or the like. Such sums are usually enforced by summons to show cause, followed by distress, warrant, or by judgment summons in the first instance under ss. 6, 35. The section does not, however, apply to poor rates. See the notes to section 6, and the case of *Reg.* v. *Price* therein mentioned.

As to clerk of court of summary jurisdiction. 40 & 41 Vict. c. 43.

48. Anything required by this Act to be done by to or before a clerk of a court of summary jurisdiction shall be done by to or before the salaried clerk to a petty sessional division under section five of the Justices Clerks Act, 1877, and where there is more than one such clerk, by either of such clerks or by such of those clerks as a court of summary jurisdiction for such division from time to time direct; and if any other person acts as the clerk to a court of summary jurisdiction acting in and for such division, such person, subject to any rules made under this Act, shall be deemed for the purposes of this Act to have acted as the deputy of such salaried clerk, and shall make a return to the said salaried clerk of all matters done by such court and of all matters which the clerk of the court is required to enter in a register or otherwise to record:

Provided, that nothing in this section shall apply where the court of summary jurisdiction is a court to whose clerk section five of the Justices Clerks Act, 1877, does not apply; that is to say, the justices of a borough, or a metropolitan police court, or any stipendiary or other magistrate the salary of whose clerk is regulated under any Act of Parliament, other than the Justices Clerks Act, 1877, and the principal Act therein mentioned. 40 & 41 Vict. c. 43. 40 & 41 Vict. c. 43.

Special definitions for purposes of the Act.

49. In this Act, if not inconsistent with the context, the following expressions have the meanings hereinafter respectively assigned to them; that is to say,

The expression "Secretary of State" means one of Her Majesty's Principal Secretaries of State:

The expression "child" means a person who in the opinion of the court before whom he is brought is under the age of twelve years:

The expression "young person" means a person who in the opinion of the court before whom he is brought is of the age of twelve years and under the age of sixteen years:

The expression "adult" means a person who in the opinion of the court before whom he is brought is of the age of sixteen years or upwards:

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The expression "person" includes a child, young person, and adult, and also includes a body corporate:

The expression "guardian," in relation to a child, includes any person who, in the opinion of the court having cognizance of any case in which a child is concerned, has for the time being the charge of or control over such child:

The expression "prescribed" means prescribed or provided by any Act which relates to any offences, penalties, fines, costs, sums of money, orders, proceedings, or matters, to the punishment, recovery, making, or conduct of which the Summary Jurisdiction Acts expressly or impliedly apply or may be applied:

The expression "past Act" means any Act passed before the commencement of this Act, exclusive of this Act:

The expression "future Act" means any Act passed after the commencement of this Act:

The expression "fine" includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction:

The expression "county" includes any county, riding, division, parts, or liberty of a county having a separate court of quarter sessions:

The expression "borough" means a borough subject to the provisions of the Municipal Corporations Act, 1835, and the Acts amending the same:

5 & 6 Will. 4, c. 76.

The expression "local rate" means, as respects any county, borough, or place, any county rate, borough rate, or other local rate out of which the costs of the prosecution of any felony committed within such county, borough, or place are payable:

The expressions "sum adjudged to be paid by a conviction" and "sum adjudged to be paid by an order" respectively include any costs adjudged to be paid by the conviction or order, as the case may be, of which the amount is ascertained by such conviction or order.

General Definitions.

50. * * * * *

This section which contained definitions of the expressions "Summary Jurisdiction Act, 1848," "Summary Jurisdiction Acts," "court of summary jurisdiction," "petty sessional court," and "occasional court-house," was amended by 47 & 48 Vict. c. 76, s. 7; but both sections have now been repealed by the Interpretation Act, 1889, 52 & 53 Vict. c. 63, s. 41, which now contains the definitions of these expressions.

Application of Acts. Section 51.

Application of Summary Jurisdiction Acts to future Acts.

51. The following regulations shall be made for the purpose of facilitating the application of the Summary Jurisdiction Acts to any future Act; that is to say,

(1) Where in any future Act any offence is directed or authorised to be prosecuted summarily or on summary conviction, or any fine is directed or authorised to be recovered summarily or on summary conviction, or any other words are used implying that such offence is to be prosecuted or fine is to be recovered in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall apply accordingly; and

(2) Where in any future Act any sum of money is directed or authorised to be recovered before a court of summary jurisdiction, or on complaint made to a court of summary jurisdiction, or words are used (whether by authorising the sum to be recovered summarily or in a summary manner or otherwise) which imply that such sum of money is to be recovered before a court of summary jurisdiction or in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall apply accordingly; and

(3) Where in any future Act a court of summary jurisdiction is authorised to order or require a person to do or abstain from doing any act or thing other than the payment of a sum of money; or where in pursuance of any such Act any act or thing other than the payment of a sum of money is required or authorised by an order of a court of summary jurisdiction to be done, or is declared capable of being enforced summarily, or by summary order; or where in any such Act any words are used implying that such act or thing is to be enforced in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall apply accordingly.

* * * * *

Application and construction of Act.

54. This Act shall apply to the levying of sums adjudged to be paid by an order in any matter of bastardy, or by an order which is enforceable as an order of affiliation, and to the imprisonment of a defendant for non-payment of such sums, in

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like manner as if an order in any such matter or so enforceable were a conviction on information, and shall apply to the proof of the service of any summons, notice, process, or document in any matter of bastardy, and of any handwriting or seal in any such matter, and to an appeal from an order in any matter of bastardy.

Nothing in this Act shall authorise a court of summary jurisdiction to reduce the amount of a fine where the Act prescribing such amount carries into effect a treaty, convention, or agreement with a foreign state, and such treaty, convention, or agreement stipulates for a fine of a minimum amount.

11 & 12 Vict. c. 43.

This Act shall be construed as one with the Summary Jurisdiction Act, 1848, so far as is consistent with the tenour of such Acts respectively, and save as aforesaid shall be subject to the exceptions specified in section thirty-five of the Summary Jurisdiction Act, 1848:

11 & 12 Vict. c. 43.

11 & 12 Vict. c. 43.

Provided that the provisions contained in sections thirty-three and thirty-four of the Summary Jurisdiction Act, 1848, as to the Acts relating to the police in the metropolis and in the city of London, and relating to the powers of justices within the metropolitan police district, shall not apply to or restrict the operation of this Act.

This Act shall not apply to any information, complaint, or other summary proceeding laid, made, or instituted before the commencement of this Act, or in respect of any offence committed, or any act done, or any cause which arose before the commencement of this Act, and any such information, complaint, or other proceeding as aforesaid may be laid, made, instituted, and proceeded with in the same manner as if this Act had not been passed.

Sums due under an order in bastardy are, therefore, enforceable by criminal process, and not as civil debts.

Preamble.

THE POOR LAW ACT, 1879.

42 & 43 VICT. CHAP. 54.

AN ACT to make better provision for the adjustment of Parish Boundaries, and to make further amendments in the Acts relating to the relief of the Poor in England.

[15th August, 1879.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Poor Law Act, 1879.

Extent of Act.

2. This Act shall not extend to Scotland or Ireland.

Commencement of Act.

3. This Act shall come into operation on the first day of September, one thousand eight hundred and seventy-nine, which day is in this Act referred to as the commencement of this Act.

Parish Boundaries.

Applying certain provisions of 39 & 40 Vict. c. 61, to inconvenient divisions of parishes.

4. Where part of a parish is on one side while the residue of the parish is on the other side of the boundary of a municipal borough or county, or of a river, estuary, or branch of the sea, or where part of a parish is so situate as to be nearly detached from the residue of the parish, or is otherwise so situate as to render the administration of the relief of the poor in or the local government of such part in conjunction with the residue of the parish inconvenient, the said parish shall be deemed to be a divided parish within the meaning of section one of the Divided Parishes and Poor Law Amendment Act, 1876, and the provisions of that Act shall apply accordingly in like manner as if the said part were isolated as mentioned in that section.

39 & 40 Vict. c. 61.

The Divided Parishes Act, 1876, 39 & 40 Vict. c. 61, provides as follows:—

Sect. 1.—Where any parish shall be divided so as to have its parts, or any of them isolated in some other parish or parishes or otherwise detached, the Local Government Board may, as and when they shall see fit, after local enquiry to be held upon notice duly given to the clerk of the peace of the county or counties in which the parts of the parish are situated, and in the parishes to be affected in the manner prescribed or usually adopted

Section 4. NOTE.

therein for the publication of parochial notices, make an order, to take effect at the expiration of some period not less than three months from the day when a copy of such order shall have been sent to the overseers, either for constituting separate parishes out of the divided parish, or for amalgamating some of the parts thereof with the parish or parishes in which the same may be locally included, or to which they may be annexed, as shall appear to such Board to be most convenient, and, providing where requisite, for a change of the county of the parish or part of a parish. (As to the meaning of the word "county," see 45 & 46 Vict. c. 58, s. 7, *post*.)

Sect. 2.—If one-tenth in number and rateable value of the persons appearing on the rate in force for the time being to be rated to the relief of the poor in any parish affected by such order shall give notice to the Local Government Board in writing of objection to the same, within three months after copies of such order shall have been sent to the overseers of the parishes affected thereby, the order shall be deemed to be a provisional order only, and shall be dealt with accordingly.

Sect. 3.—From and after the twenth-fifth day of March next ensuing the day when such order, if not objected to, shall take effect, and in the case of a provisional order next ensuing the date of the Act of Parliament confirming the same, the several parts of every parish to which such order shall apply, shall be and continue to be constituted in the manner directed by the said order, and the officers of the several parishes affected thereby shall be empowered, and shall be required to act as if such parishes had been constituted in the manner directed prior to the issue of such order.

Sect. 4.—Nothing herein contained shall apply to the ecclesiastical divisions of parishes, nor to the constitution of school districts, without the sanction of the Education Department, or shall alter the boundaries of any municipal borough, and for the purposes of the election of members of Parliament and of burgesses in municipal boroughs, of the jury lists, of the action of the justices, and of the police and constables, the parishes shall continue to be deemed unaltered until new lists are made and new constables are appointed.

Sect. 5.—Where a parish affected by the order shall be included in a highway district, its condition therein and the appointment of the waywarden thereof shall be changed according to the terms of the order, whether its area or contents be diminished or increased thereby. (See section 7, *infra*.)

Sect. 6.—Every parish constituted under this Act by the order of the Local Government Board shall, notwithstanding the prohibition as to the appointment of overseers contained in the twenty-second section of the Poor Law Amendment Act, 1844, be a parish for which an overseer shall be appointed, and for all other lay and civil purposes to which a parish may be liable or entitled. The meeting of inhabitants of the same qualified as in the case of any ordinary parish, shall be deemed the vestry meeting thereof, and the rector, vicar, or perpetual curate having cure of souls in the greater part thereof shall, when present, be the chairman thereof, unless the Local Government Board shall determine in their order which of such incumbents shall be such chairman, and all the documents of the respective parishes shall be deposited and kept in such place as the Local Government Board by their order shall appoint.

Sect. 7.—If any person shall be deprived of any office or employment, or if his profits in respect thereof shall be diminished under or by reason of

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any provision of this Act, the Local Government Board may, if they see fit, award by their order a compensation to him according to their judgment, to be paid out of such fund and in such manner as shall appear to them to be equitable.

Sect. 8.—The said Board shall make due adjustment of the property, if any, and of the debts or liabilities of the parishes among the several parts thereof according to the alterations caused by the order, and the arrears of rates due at the time when the order takes effect shall be recovered by the overseers or other officers properly competent to do so, and from the persons liable, as if there had been no alteration, and the justices, who shall make a county rate upon any such parishes before a new basis for the same shall be established, shall make due provision therein for the alterations aforesaid. Provided that no person shall be liable to any rate made in the parish to which the part of the parish wherein his land or premises shall be situated may be added before the said 25th day of March.

Sect. 9.—Nothing herein contained shall prejudice, vary, or affect any right, interest, or jurisdiction in or over any charitable endowment which now is, or hereafter shall be, applicable for the benefit of a divided parish, as defined by section one of this Act, or the inhabitants thereof.

Further amendments of the principal Act are contained in 45 & 46 Vict. c. 58, *post*.

Removing doubts as to construction of 39 & 40 Vict. c. 61, s. 1.

5. Whereas by section one of the Divided Parishes and Poor Law Amendment Act, 1876, an order may be made "for constituting separate parishes out of the divided parish, or for amalgamating some of the parts thereof with the parish or parishes in which the same may be locally included, or to which they may be annexed;" and doubts have arisen with respect to the construction of the said provision, and it is expedient to remove such doubts: Be it therefore enacted as follows:

An order under the said Act may deal with several divided parishes at the same time, and may constitute separate parishes out of any of such divided parishes or out of parts of several divided parishes, and may unite any parts of a divided parish or of several divided parishes with each other, and amalgamate the parts so united with any adjoining parish, and may amalgamate any part of a divided parish or parts of several divided parishes with an adjoining parish or adjoining parishes.

The text of 39 & 40 Vict. c. 61. s. 1, is set out in full in the note to the preceding section.

Extension of 39 & 40 Vict. c. 61, to certain places formerly extra-parochial.

6. Where a parish was at the time of the passing of the Act of the twentieth year of Her present Majesty, chapter nineteen, intituled "An Act to provide for the relief of the Poor in extra-parochial places," an extra-parochial place, and a representation is made to the Local Government Board that, by reason of the relative size and shape of such parish, and its position in respect to other parishes, the relief of the poor could be better admin-

Section 6.

istered if the same, or any part or parts thereof, were amalgamated with the adjoining parish or parishes, an order may be made in pursuance of the Divided Parishes and Poor Law Amendment Act, 1876, in relation to such parish, in like manner as if the said parish were a divided parish.

39 & 40 Vict. c. 61.

The 20 Vict. c. 19, s. 1, provides that after the 31st day of December, 1857, every place entered separately in the report of the registrar-general on the last census which now is or is reputed to be extra-parochial, and wherein no rate is levied for the relief of the poor, shall for all the purposes of the assessment to the poor rate, the relief of the poor, the county, police, or borough rate, the burial of the dead, the removal of nuisances, the registration of parliamentary and municipal voters, and the registration of births and deaths, be deemed a parish for such purposes, and shall be designated by the name which is assigned to it in such report; and the justices of the peace having jurisdiction over such place or over the greater part thereof, shall appoint overseers of the poor therein; and with respect to any other place being or reputed to be extra-parochial, and wherein no rate is levied for the relief of the poor, such justices may appoint overseers of the poor therein, notwithstanding anything contained in the 101st chapter of the statute passed in the session of Parliament of the seventh and eighth years of Her present Majesty.

Removing doubts as to effect of an order under 39 & 40 Vict. c. 61, s. 5.

7. Whereas by section five of the Divided Parishes and Poor Law Amendment Act, 1876, provision is made for dealing with a parish included in a highway district, and doubts have arisen as to the effect of an order under the said Act so far as regards highways, and it is expedient to remove such doubts: Be it therefore enacted as follows:

Where a parish is a place separately maintaining his own highways, an order made either before or after the commencement of this Act under the Divided Parishes and Poor Law Amendment Act, 1876, shall be deemed to have dealt with that parish for highway as well as for poor law purposes.

39 & 40 Vict. c. 61.

Where a parish is not a place separately maintaining its own highways, an order under the Divided Parishes and Poor Law Amendment Act, 1876, dealing with such poor law parish or any part thereof, may deal with any area affected by the order for highway purposes in like manner as it deals with the same for poor law purposes.

39 & 40 Vict. c. 61.

Where any such order has been made before the passing of this Act, a supplemental order may be made under the said Act for the purposes of dealing with the area so far as regards highways.

For the purposes of this section, any parish, township, or place separately maintaining its own highways or entitled to return a separate waywarden to a highway board under the

Highway Acts shall be deemed to be a place separately maintaining its own highways. Section 7.

The text of 39 & 40 Vict. c. 61, s. 5, is set out in the notes to section 4, *ante*.

The 45 & 46 Vict. c. 58, s. 6, *post*, provides that section 5 of the 39 & 40 Vict. c. 61, shall apply to any parish in a highway district, although it may not be a parish for which a waywarden can be elected.

As to parishes within a highway district, see the 25 & 26 Vict. c. 61, s. 7; 27 & 28 Vict. c. 101, ss. 5, 7; 38 & 39 Vict. c. 55, s. 216.

Miscellaneous Amendments of Law.

Combination of unions not in the metropolis.

8. Where on any representation it appears to the Local Government Board that the combination of two or more unions not in the metropolis for any purpose connected with the administration of the relief of the poor would tend to diminish expense, or would otherwise be of public or local advantage, the Board may, with the consent of the guardians of the unions to be combined, make an order for combining such unions for the purposes named therein, and for constituting for the execution of such purposes a joint committee of the guardians of each of the combined unions.

The order shall define the powers, rights, duties, liabilities, and obligations of the joint committee, and regulate the election, meetings, and officers of the joint committee, the mode of defraying the expenses of the joint committee, and any other matter or thing (including the adjustment of present and future liabilities and property) which it appears necessary or proper to regulate for the better carrying into effect the order.

The guardians of a union included in such combination shall, save as otherwise provided by the order, cease to exercise any powers and rights, and to be subject to any duties, liabilities, and obligations vested by the order in the joint committee.

All property acquired by the joint committee shall be vested in the boards of guardians of the unions included in the combination as tenants in common.

An order may be made for amending, adding to, or revoking any order previously made under this section.

Amendment of 30 & 31 Vict. c. 106, s. 2, as to application for alteration of certain Local Acts.

9. An application under section two of the Poor Law Amendment Act, 1867, may be made by any churchwarden, overseers, managers, commissioners, or other persons having any powers or duties under any such Local Act as is in that section mentioned, as well as by the guardians.

The 30 & 31 Vict. c. 106, s. 2, provides as follows:—Where in any union as defined by the Metropolitan Poor Act, 1867, the relief of the poor,

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NOTE.

or the making and levying of the poor rate, is subject to the control or regulation of any local Act, it shall be competent for the guardians of such union or parish having powers to exercise, or duties to discharge under such Act, to apply to the Poor Law Board to issue an order to repeal the whole or any part of such local Act, or to alter the same, such application having been agreed to by the majority at two successive meetings of the said guardians, and being forwarded in writing under the hand of the presiding chairman of the second of such meetings to the said board; and the said board may, if after due enquiry they shall deem it expedient, make and issue a Provisional Order for such repeal or alteration, and shall take all necessary steps for the confirmation of such Order by Act of Parliament, but previously to such confirmation the said Order shall not be of any validity whatever; and every Act of Parliament confirming such Order shall be deemed a public general Act.

Extension of 14 & 15 Vict. c. 105, s. 4, as to subscriptions to institutions.

10. Whereas by section four of the Poor Law Amendment Act, 1851, guardians are authorised, with such consent as is therein mentioned, to subscribe towards the support and maintenance of any public hospital or infirmary as therein mentioned, and it is expedient to extend the said section: Be it therefore enacted as follows:

The provisions of the said section shall extend to authorise the guardians, with such consent as is therein mentioned, to subscribe towards any asylum or institution for blind persons, or for deaf and dumb persons, or for persons suffering from any permanent or natural infirmity, or towards any association or society for aiding such persons, or for providing nurses, or for aiding girls or boys in service, or towards any other asylum or institution which appears to the guardians, with such consent as aforesaid, to be calculated to render useful aid in the administration of the relief of the poor.

Provided always, that nothing herein contained shall authorise any subscription to any asylum or institution unless the Local Government Board be satisfied that the paupers under the guardians have or could have assistance therein in case of necessity.

The 14 & 15 Vict. c. 105, s. 4, provides that whereas doubts have been entertained with regard to the legal authority of guardians to subscribe towards the funds of any hospital or infirmary: Be it enacted, that the guardians of any union or parish may, with the consent of the (Local Government) Board, pay out of the common fund of such union, or, in the case of a parish, out of the funds in the hands of such guardians, any sum of money as an annual subscription, towards the support and maintenance of any public hospital or infirmary for the reception of sick, diseased, disabled, or wounded persons, or of persons suffering from any permanent or natural infirmity.

Power for guardians to borrow for furnishing,

11. The guardians of any union, for the purpose of fitting up and furnishing any workhouse under their control, may borrow money in accordance with the provisions of the Poor Law

Amendment Act, 1834, and the Acts amending the same, including this Act. Section 11.

&c., workhouses.

The Poor Law Act, 1889 (52 & 53 Vict. c. 56, s. 2), *post*, contains the provision now in force relating to the purposes and amount for, and to which guardians have power to borrow. It provides that guardians may, with the sanction of the Local Government Board, borrow, for the purpose of raising the expenses incurred or proposed to be incurred for any permanent work or object, or any other thing, the costs of which ought, in the opinion of the Local Government Board, to be spread over a term of years. It further provides that all enactments touching the purposes for which and the amount to which guardians of unions, and managers of any school or asylum district to whom this section applies, may borrow, shall be repealed without prejudice to anything done thereunder, but every loan under this section shall be made on the like security, and be paid off in the like time and manner, and be borrowed and reborrowed in the like manner as is provided by the enactments in force at the passing of this Act, with respect to loans of such guardians and managers.

4 & 5 Will. 4, c. 76.

See as to borrowing by guardians, 52 & 53 Vict. c. 56, s. 2, and the notes thereto, *post*.

Amendment of 32 & 33 Vict. c. 45, s. 5, as to loans to guardians. 32 & 33 Vict. c. 45.

12. Whereas section five of the Union Loans Act, 1869, provides that any sum or sums of money borrowed by guardians may be repaid either by thirty equal annual payments of the principal, or by such equal annual payments as will repay the sum borrowed within thirty years, and it is expedient to authorise the repayment of any sum or sums in manner herein-after mentioned: Be it therefore enacted as follows:

Section five of the Union Loans Act, 1869, shall be construed as if there were substituted for the thirty equal annual payments and the thirty years therein mentioned such number of equal annual payments not exceeding thirty, and such number of years not exceeding thirty, as the guardians, with the consent of the Local Government Board, may in each case determine.

See the notes to the preceding section.

Application of 32 & 33 Vict. c. 45, to loans to managers of district schools, &c. 30 & 31 Vict. c. 6.

13. The provisions of the Union Loans Act, 1869, shall be deemed to have applied, and as amended by this Act shall apply, to the managers of district schools and to the managers of districts constituted under the Metropolitan Poor Act, 1867, in like manner as if they were guardians.

The Acts relating to district schools in the Metropolis are 30 & 31 Vict. c. 6, ss. 47—49, 55—58, 68, 69; 31 & 32 Vict. c. 122, s. 11; 32 & 33 Vict. c. 63, ss. 1, 2; 36 & 37 Vict. c. 86, s. 4; 39 & 40 Vict. c. 79, ss. 10, 16, 40.

The Acts relating to districts constituted under 30 & 31 Vict. c. 6, in addition to that Act itself are 31 & 32 Vict. c. 122, ss. 9, 35; 32 & 33 Vict. c. 63, ss. 1, 2, 6, 7, 11; 33 & 34 Vict. c. 18, ss. 1, 2; 34 & 35 Vict. c. 108, s. 10; 39 & 40 Vict. c. 61, ss. 40, 42; 45 & 46 Vict. c. 58, s. 9.

The provisions of the Poor Law Act, 1889, s. 2, set out in the notes to section 11, *ante*, apply also to managers of district schools, &c. See the 52 & 53 Vict. c. 56, s. 2, *post*, where the borrowing powers of guardians managers of district schools, &c., are fully treated.

Section 14.

Transfer of buildings, &c., to rural sanitary authority for use as infectious hospitals.

14. If it appear to the guardians of any union desirable that any hospital or building vested in them as guardians under the Acts relating to the relief of the poor should be vested in them as the rural sanitary authority of such union, for the reception of persons suffering from any dangerous infectious disorder, the guardians may, by resolution, to be confirmed by an Order of the Local Government Board, transfer such hospital or building accordingly; and from and after the date named in the order such hospital or building shall be deemed to be vested in the guardians as the rural sanitary authority of the union, for the use of the inhabitants of the union or part thereof named in the resolution and order.

If the same is to be for the use of the inhabitants of any part of the union comprised in an urban sanitary district the order may determine the contribution to be made by the urban sanitary authority of such district towards the maintenance of the hospital or building.

Where an urban sanitary district comprises part of the union, and the said hospital or building is not to be for the use of the inhabitants of that part, the order may determine the value of the interest of that part of the union in such hospital or building, and the manner in which such value is to be paid to that part by the residue of the union for whose use the hospital or building is to be kept and the application of the sum so paid.

The rural sanitary authority, as such, has power to provide a hospital, under section 131 of the Public Health Act, 1875, for the use of the inhabitants of their district, whether paupers or not.

Power for Metropolitan Asylums Board to contract with local authority for reception, &c., in hospital of persons suffering from dangerous infectious disorder.

18 & 19 Vict. c. 121.

15. The Metropolitan Asylums Board may from time to time, with the approval of the Local Government Board, contract with any local authority in the metropolis acting in the execution of the Nuisances Removal Act, 1855, and the Acts amending the same, for the reception and maintenance in any hospital belonging to or under the management of such board of any person suffering from any dangerous infectious disorder within the district of any such local authority, and any person received into an hospital by virtue of any such contract under this section shall be deemed to be maintained in such hospital by the local authority with whom the contract is made.

Any expenses incurred by a local authority for the maintenance of any person under this section shall be deemed to be due from such person to the local authority, and may be recovered by the local authority from him, or from his repre-

sentatives, at any time within six months after his discharge from such hospital. Section 15.

The local authorities in the metropolis above referred to are the vestries and district boards (23 & 24 Vict. c. 77, s. 9). The 29 & 30 Vict. c. 90, s. 26, provides that, where a hospital or place for the reception of the sick is provided within the district of a nuisance authority, any justice may, with the consent of the superintending body of such hospital or place, by order, on a certificate signed by a legally qualified medical practitioner, direct the removal to such hospital or place for the reception of the sick, at the cost of the nuisance authority, of any person suffering from any dangerous contagious or infectious disorder, being without proper lodging or accommodation, or lodged in a room occupied by more than one family, or being on board any ship or vessel.

By section 29 of the same Act power is given to any nuisance authority to remove to a hospital any sick persons brought within their district by any ship or boat who are infected with a dangerous and infectious disorder.

37 & 38 Vict. c. 89, s. 51, provides that, for the purposes of the twenty-sixth section of the Sanitary Act, 1866, every hospital or place for the reception of the sick which shall be declared by an order of the Local Government Board to be situated within a convenient distance of the district of any authority for the purposes of that section shall be deemed to be within the district of such authority.

Where a justice shall make an order under that section for the removal of a sick person to a hospital or other place, he shall address it to such police or other officer as he shall consider expedient; and every person wilfully disobeying the order, or obstructing the execution of the same, shall be guilty of an offence punishable on summary conviction before two justices, and be liable to a penalty not exceeding ten pounds.

Power for Metropolitan Asylums Board to provide ambulances.

16. The Metropolitan Asylums Board may from time to time provide and maintain carriages suitable for the conveyance of persons suffering from any dangerous infectious disorder, and shall cause the same to be from time to time properly cleansed and disinfected, and may provide and maintain such buildings and horses, and employ such persons, and do such other things as are necessary or proper for the purposes of such conveyance.

All expenses incurred by the Metropolitan Asylums Board in the execution of this section to such extent as the Local Government Board may sanction shall be paid out of the Metropolitan Common Poor Fund.

The 23 & 24 Vict. c. 77, s. 12, gives to local authorities, under the Diseases Prevention Act, 1855, *i.e.*, the vestries and district boards in the metropolis, to provide and maintain carriages suitable for the conveyance of persons suffering under any contagious and infectious disease, and to convey such sick and diseased persons as may be residing within such locality to any hospital or other place of destination. This power is not affected by the provision in the text, which applies only to the Metropolitan Asylums Board.

The 52 & 53 Vict. c. 56, s. 6, *post*, provides that the asylum managers may allow their carriages to be used for the conveyance of persons suffering from any dangerous disorder to and from hospitals and places other than asylums provided by the asylum managers, and may make reasonable charge for that use. By section 7 of the same Act (*post*) the provision of buildings for the purposes of the above section is to be a purpose for which

Section 16. the managers are authorised to borrow in pursuance of the Metropolitan Poor Act, 1867.

NOTE. The corresponding provision of the Public Health Act, 1875, is contained in section 123.

As to the Metropolitan Common Poor Fund, see 30 & 31 Vict. c. 6. ss. 61—72; 31 & 32 Vict. c. 122, s. 11; 32 & 33 Vict. c. 63, ss. 18, 21; 33 & 34 Vict. c. 18, ss. 1, 2; 34 & 35 Vict. c. 15; 39 & 40 Vict. c. 61, s. 43 (see note to section 19, *infra*); 39 & 40 Vict. c. 79, ss. 10, 16, 40, 43.

Power to remunerate poor rate collectors for collecting rates in parts of parishes.

17. Where a rate is levied by the overseers of a parish over part of the parish only, the officers ordinarily employed in the collection of the poor rate shall, if required by the overseers, collect such first-mentioned rate, and shall receive out of the same such remuneration for the additional duty as the overseers, with the consent of the vestry, may determine.

Rates may be levied over part of a parish in many cases, *e.g.*, under sections 229, 230 of the Public Health Act, 1875, or under section 146 of the of the Municipal Corporations Act, 1882.

Definitions.

18. In this Act, unless inconsistent with the context,—

"Metropolis." The expression "the Metropolis" means all parishes and places in which the Metropolitan Board of Works have for the time being power to levy the consolidated rate:

"Metropolitan Asylums Board." The expression "Metropolitan Asylums Board" means the Managers of the Metropolitan Asylums District:

"Parish." The expression "parish" means any parish, township, or place for which a separate poor rate is or can be made:

"Municipal borough." 5 & 6 Will. 4, c. 76. The expression "municipal borough" means a borough for the time being subject to the Municipal Corporation Act, 1835, and the Acts amending the same:

"Urban and rural sanitary district." 38 & 39 Vict. c. 55. The expression "urban sanitary district" and "rural sanitary district" mean respectively an urban sanitary district and rural sanitary district within the meaning of the Public Health Act, 1875:

"Union." The expression "union" means a union of parishes under a general or local Act, with a separate board of guardians, and includes a parish for which there is a separate board of guardians:

"Guardians." 4 & 5 Will. 4, c. 76. The expression "guardians" means guardians appointed under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or other body of persons performing under any local Act the like functions as guardians under the Poor Law Amendment Act, 1834.

4 & 5 Will. 4, c. 76.

See the Interpretation Act, 1889, *post*, which contains definitions of some of the above terms, and will presumably supersede *pro tanto* the above section.

19. Nothing in this Act contained shall repeal, alter, or affect any of the provisions of the forty-third section of the Divided Parishes and Poor Law Amendment Act, 1876. Section 19. Saving as to 39 & 40 Vict. c. 61, s. 43.

The 39 & 40 Vict. c. 61, s. 43, removes the exemption heretofore enjoyed by the Inns of Court and the Charterhouse from contributing to the common fund of any union.

THE UNION ASSESSMENT ACT, 1880.

43 & 44 VICT. CHAP. 7.

An Act to extend the Union Assessment Committee Acts to single parishes under separate Boards of Guardians.

[19th July, 1880.]

WHEREAS under section forty-five of the Union Assessment Committee Act, 1862, as amended by subsequent Acts, it is provided that on the application of the body having the management of the relief of the poor in any union or incorporation under a Local Act, the Local Government Board may order such union or incorporation to be included in the Union Assessment Committee Act, 1862, and it is expedient to make the like provision with respect to single parishes which are not included in any union of parishes either under a Local Act or under the Poor Law Amendment Act, 1834: 25 & 26 Vict. c. 103, s. 45. 25 & 26 Vict. c. 103. 4 & 5 Will. 4, c. 76.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Union Assessment Act, 1880, and together with the Union Assessment Committee Act, 1862, and the Union Assessment Committee Amendment Act, 1864, may be cited as the Union Assessment Acts, 1862 to 1880. Short title. 25 & 26 Vict. c. 103. 27 & 28 Vict. c. 39.

2. Section forty-five of the Union Assessment Committee Act, 1862, shall apply to a parish which is not included in a union of parishes, and in which the relief of the Poor is administered by a board of guardians elected under the Poor Law Amendment Act, 1834, or under any Local Act, in like manner as near as may be as it applies to any union or incorporation for the relief of the poor formed under a Local Act, and the Union Assessment Committee Act, 1862, and the Acts amending the same, Application of 25 & 26 Vict. c. 103, s. 45, to single parishes under separate boards of guardians. 4 & 5 Will. 4, c. 76. 25 & 26 Vict. c. 103.

Section 2. shall be construed accordingly; and in relation to any such single parish the expression "common fund" in the said Acts shall be construed to mean the money applicable for the relief of the poor.

The Union Assessment Committee Act, 1862, s. 45, provides as follows: And whereas there are divers unions or incorporations for the relief of the poor formed under local Acts, and under the Act, 22 Geo. 3, c. 83, which may desire to adopt the provisions of this Act: Be it enacted, that any such union or incorporation, on resolution to that effect, of a majority at two successive meetings of the body, having under the constitution of such union or incorporation the management of the relief of the poor within the same, may, by writing under the hand of the presiding chairman of the second of such meetings, apply to the Poor Law Board to be included in this Act; and such union or incorporation, upon the consent of the Poor Law Board being given to such application, under its seal, shall be so included; and such consent so signified shall be evidence that such application was in all respects duly made according to the provisions above mentioned; and such regulations shall thereafter be made from time to time by the said Board, with the consent of such body, as may be necessary to render the provisions of this Act conformable with the provisions of the Act under which the said union or incorporation shall have been formed.

Extent of Act. 32 & 33 Vict. c. 67.

3. This Act shall not extend to the Metropolis as defined by the Valuation (Metropolis) Act, 1869.

THE INDUSTRIAL SCHOOLS ACTS AMENDMENT ACT, 1880.

43 & 44 VICT. CHAP. 15.

An Act further to amend the Industrial Schools Act, 1866, and the Industrial Schools Act (Ireland), 1868.

[2nd August, 1880.]

WHEREAS it is expedient that children who are growing up in the society of depraved and disorderly persons should be withdrawn from contaminating influences, and that the benefits of industrial school training should be extended to them:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Extension of 29 & 30 Vict. c. 118, s. 14, and 31 & 32

1. Section fourteen of the Industrial Schools Act, 1866, and section eleven of the Industrial Schools Act (Ireland), 1868, shall be respectively read and construed as if, after the four

several descriptions therein respectively contained, there were added the following descriptions, namely,— Section 1.

Vict. c. 25, s. 11, to other descriptions of children.

That is lodging, living, or residing with common or reputed prostitutes, or in a house resided in or frequented by prostitutes for the purpose of prostitution:

That frequents the company of prostitutes.

The 29 & 30 Vict. c. 118, s. 14, enables any person to bring before two justices or a magistrate any child apparently under the age of 14 years that comes within certain specified descriptions, to which must now be added the descriptions in the text. The justices or magistrate before whom a child is brought as coming within one of those descriptions, if satisfied on inquiry of that fact, and that it is expedient to deal with him under that Act, may order him to be sent to a certified industrial school.

A child under 14 who lives with and under the guardianship of her mother, in "a house resided in by prostitutes," may be ordered to be sent to an industrial school under the above Acts, although there is no evidence of any act of prostitution on the part of the mother. *Hiscocks* v. *Jermonson*, 10 Q. B. D. 360; 52 L. J. M. C. 42; 48 L. T. (N.S.) 225; 31 W. R. 656; 47 J. P. 183.

The court is always desirous of doing all that can be done to carry out the beneficent object of the above Acts, and will require justices to whom complaint has been made thereunder, to issue a summons against the child. If the child does not appear, then a warrant may be issued to bring her before the justices. *Re Hampshire JJ.*, 52 J. P. 311.

The power given under the above sections to any person to bring before justices a child residing with prostitutes includes the bringing of the child by way of legal process. Hence, a summons may be served on the child, and process to arrest in the usual way may follow as provided by the Summary Jurisdiction Acts. *Reg.* v. *Moore*, 52 J. P. 375.

2. This Act may be cited for all purposes as the Industrial Schools Acts Amendment Act, 1880. Short title.

THE TAXES MANAGEMENT ACT, 1880.

43 & 44 VICT. CHAP. 19.

An Act to consolidate Enactments relating to certain Taxes and Duties under the management of the Board of Inland Revenue. [6th August, 1880.]

WHEREAS it is expedient that certain Acts now in force for the management and regulation of the duties of land tax, inhabited house duties, and property and income tax should be consolidated into one Act:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords

Preamble. Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

The only sections of this Act which in any manner relate to poor law matters are sections 38 and 39, which are set out below.

* * * * *

Poor Law Parishes.

Parishes formed for poor law purposes may be made parishes for the purposes of the duties.

38. (1) Where in England, under the authority of Parliament, any part of a parish or place has been formed into a new parish or place for the purposes of poor law administration, or any parish or place, or part of a parish or place, has been amalgamated with or included within the boundaries of another parish or place for the said purposes, the board may, if they think fit, by order in writing, direct that such new parish or place, or such parish or place with which or within the boundaries of which any parish or place, or part of a parish or place, has been amalgamated or included, shall be a parish for which a separate assessment of the duties shall be made, and for which assessors and collectors may be appointed for the purpose of assessing and collecting the said duties.

(2) In case any parish or place or part of a parish or place in the jurisdiction of one body of General Commissioners is amalgamated with or included within the boundaries of a parish or place in the jurisdiction of another body of General Commissioners, such order shall have the effect of transferring the jurisdiction to such last-named body.

Parochial Books.

Inspection of parish books.

39. The Land Tax and General Commissioners, surveyors, and assessors, or any person authorised by them, or any of them, shall have liberty from time to time and at all seasonable times to inspect and to take copies or extracts from any book kept by any parish officer or other person of or concerning the rates made for the relief of the poor, or any other public taxes, rates, or assessments, or any contributions under the management of the kirk sessions in any place within the limits for which they shall be appointed; and if any person in whose custody or power any of the said books shall be fails to permit the said inspection, or the copies or extracts to be made as aforesaid, or to attend the said Commissioners with such books when required so to do, he shall for every such offence incur a penalty of ten pounds.

Penalty for refusal.

* * * * *

Preamble.

THE ELEMENTARY EDUCATION ACT, 1880.

43 & 44 VICT. CHAP. 23.

An Act to make further provision as to Bye-laws respecting the attendance of Children at School under the Elementary Education Acts. [26th August, 1880.]

WHEREAS a school attendance committee within the meaning of the Elementary Education Act, 1876, are authorised to make bye-laws respecting the attendance of children at school under section seventy-four of the Elementary Education Act, 1870, as if such school attendance committee were a school board, but a school attendance committee for a union cannot make bye-laws respecting any parish in their union, except on the requisition of the parish; and it is expedient to make further provision for the making of bye-laws respecting the attendance of children at school: 39 & 40 Vict. c. 79. 33 & 34 Vict. c. 75.

And whereas it is expedient otherwise to amend the Elementary Education Act, 1876, in respect of bye-laws: 39 & 40 Vict. c. 79.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Elementary Education Act, 1880, and shall be construed as one with the Elementary Education Act, 1876, and that Act and this Act may be cited together as the Elementary Education Acts, 1876 and 1880. Short title and construction. 39 & 40 Vict. c. 79.

The Elementary Education Acts comprise the following:—33 & 34 Vict. c. 75 (1870); 36 & 37 Vict. c. 86 (1873); 39 & 40 Vict. c. 79 (1876); 42 & 43 Vict. c. 48 (1879), *ante*, p. 18; this Act (1880); 48 & 49 Vict. c. 38 (1885), *post*.

2. It shall be the duty of the local authority (within the meaning of the Elementary Education Act, 1876) of every school district in which bye-laws respecting the attendance of children at school under section seventy-four of the Elementary Education Act, 1870, are not at the passing of this Act in force, forthwith to make bye-laws under that section for such district. Obligation to make bye-laws as to the attendance of children at school. 39 & 40 Vict. c. 79.

If at any time after the thirty first day of December, one thousand eight hundred and eighty, it appears to the Education 33 & 34 Vict. c. 75.

Section 2.

Department that in any school district there are no bye-laws under that section in force, the Education Department may either proceed under section twenty-seven of the Elementary Education Act, 1876 (which relates to a local authority who fail to fulfil their duty under that Act), or may make bye-laws respecting the attendance of children at school in that district, and the bye-laws so made shall have effect and be enforced and be subject to revocation and alteration as if they had been made by the local authority for that district and sanctioned by the Education Department in pursuance of section seventy-four of the Elementary Education Act, 1870: Provided that where in a school district in which bye-laws are not in force a bye-law is made in pursuance of this section, that bye-law shall not prevent a child who, at the date of the bye-law taking effect, is employed in accordance with the Elementary Education Act, 1876, from continuing to be so employed.

39 & 40 Vict. c. 79.

33 & 34 Vict. c. 75.

39 & 40 Vict. c. 79.

The local authority are in a school board district the school board, and in places not in a school board district a school attendance committee appointed in a borough by the council, and elsewhere by the guardians: 39 & 40 Vict. c. 79, s. 7. In an urban district which is not, and does not, comprise a borough, and which is co-extensive with any parish or parishes not within the district of a school board, containing a population of not less than 5,000, the Education Department may, on the application of the urban authority, authorise that authority to appoint a school attendance committee as if they were the council of a borough: 39 & 40 Vict. c. 79, s. 33.

Before the passing of this Act it was optional with a school board or school attendance committee to make bye-laws respecting the attendance of children at school. See 33 & 34 Vict. c. 75, s. 74; 39 & 40 Vict. c. 79, s. 21, as amended by section 3 of this Act, *infra*. The making of such bye-laws is now compulsory.

Section 27 of the Education Act, 1876, provides for cases of failure by a local authority to perform their duties. In such cases the authority, if a school board, may be superseded by the appointment of a new board in manner provided by sections 63, 64, and 66 of the Act of 1870, and if a school attendance committee by the appointment of persons to perform the duty of the defaulting committee.

The proviso to the section is now spent.

Power of school attendance committee to make bye-laws.

39 & 40 Vict. c. 79.

33 & 34 Vict. c. 75.

3. The school attendance committee for a union comprising a parish may, in pursuance of section twenty-one of the Elementary Education Act, 1876, without the requisition of the parish, make bye-laws under section seventy-four of the Elementary Education Act, 1870, respecting the attendance of children at school.

Under section 21 of the Act of 1876, a school attendance committee appointed by a board of guardians for any parish within the union could not make bye-laws except on the requisition of the parish. This requisition is no longer necessary, and the committee are now bound to make bye-laws under the preceding section.

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Enforcing of bye-laws.

4. Every person who takes into his employment a child of the age of ten and under the age of thirteen years resident in a school district, before that child has obtained a certificate of having reached the standard of education fixed by a bye-law in force in the district for the total or partial exemption of children of the like age from the obligation to attend school, shall be deemed to take such child into his employment in contravention of the Elementary Education Act, 1876, and shall be liable to a penalty accordingly.

39 & 40 Vict. c. 79.

Proceedings may, in the discretion of the local authority or person instituting the same, be taken for punishing the contravention of a bye-law, notwithstanding that the act or neglect or default alleged as such contravention constitutes habitual neglect to provide efficient elementary education for a child within the meaning of section eleven of the Elementary Education Act, 1876: Provided that nothing in this section shall prevent an employer from employing any child who is employed by him or by any other person at the time of the passing of this Act, and who attends school in accordance with the provisions of the Factory and Workshop Act, 1878.

39 & 40 Vict. c. 79.

41 & 42 Vict. c. 16.

No person can lawfully employ a child under the age of ten years: 39 & 40 Vict. c. 79, s. 5.

No person can lawfully employ a child over ten but under thirteen years unless such child has obtained a certificate as mentioned in the above section.

No person can lawfully employ a child over thirteen but under fourteen years unless it has obtained a certificate of proficiency or of previous due attendance, or is employed and is attending school in accordance with the provisions of the Factory Acts or of any bye-laws of the local authority: 39 & 40 Vict. c. 79, s. 5.

The provisions of the Act of 1876 relating to proceedings against a parent for habitual neglect are contained in sections 11 and 12.

The proviso to this section is now spent.

Amendment of 39 & 40 Vict. c. 79, s. 40, as to education being condition of relief to parents of children.

5. Notwithstanding anything contained in section forty of the Elementary Education Act, 1876, a child shall not, as a condition of the continuance of relief out of the workhouse being continued to him or his parent, be required to attend school further or otherwise than he is required to attend by a bye-law in force under section seventy-four of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1876, and this Act, in the school district in which he is resident: Provided that this section shall not apply where there is no such bye-law in force in the school district.

33 & 34 Vict. c. 75.

39 & 40 Vict. c. 79.

Section 40 of the Act of 1876 provides as follows:—Where relief out of the workhouse is given by the guardians or their order, by way of weekly or other continuing allowance, to the parent of any child above the age of

Section 5.

NOTE.

five years who has not reached the standard in reading, writing, and arithmetic prescribed by Standard III. of the Code of 1876, or who for the time being is either prohibited by this Act from being taken into full-time employment, or is required by any bye-law under section 74 of the Elementary Education Act, 1870, as amended by this Act, to attend school, or to any such child, it shall be a condition for the continuance of such relief that elementary education in reading, writing, and arithmetic shall be provided for such child, and the guardians shall give further relief (if any) as may be necessary for that purpose. Any such relief to a parent as above mentioned shall not be granted on condition of a child attending any public elementary school other than such as may be selected by the parent, nor refused because the child attends or does not attend any particular public elementary school. The guardians shall not have power under this section to give any relief to a parent in order to enable such parent to pay more than the ordinary fee payable at the school which he selects, or more than the fee which under this Act they can enable a parent to pay in any other case. All relief given by guardians under this section shall be deemed to be relief within the meaning of the Acts relating to the relief of the poor, and shall be paid out of their common fund, and where given by the guardians of any union in the metropolis as defined by the Metropolitan Poor Act, 1867, shall be deemed to be expenses payable from the Metropolitan Common Poor Fund within the meaning of section 69 of that Act, and shall be repaid to such guardians accordingly.

Repeal. 39 & 40 Vict. c. 79.

6. The Elementary Education Act, 1876, shall be repealed to the extent and from the times in the third column of the schedule to this Act mentioned, without prejudice to anything previously done or suffered, or any order previously made, or any right or title or liability acquired, accrued, or incurred in pursuance of any enactment hereby repealed; and any such thing, order, right, and title and liability may be enforced, and any proceeding then pending for such enforcement may be carried on, as if such enactment had not been repealed.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
39 & 40 Vict. c. 79.	The Elementary Education Act, 1876.	In section twenty-one, the words "may if they think fit" and the words "on the requisition of the parish, but not otherwise," as from the passing of this Act. Section twenty-two, as from the passing of this Act. Sections fifty-one and fifty-two, as from the passing of this Act. First Schedule, as from the first of January, one thousand eight hundred and eighty-one, from "During the four years next after" down to "higher standard required for that year," both inclusive (being paragraph (3)), and from "Provided that in each of the four years next after" down to the end of the table, both inclusive (being paragraph 6).

Preamble.

THE BASTARDY ORDERS ACT, 1880.

43 & 44 VICT. CHAP. 32.

An Act to render valid certain Orders in Bastardy.

[26th August, 1880.]

36 & 37 Vict. c. 9.

35 & 36 Vict. c. 65.

WHEREAS by the Bastardy Laws Amendment Act, 1873, it was enacted that the Local Government Board might issue such new or altered forms of proceedings in matters of bastardy as they should deem necessary or expedient for giving effect to the provisions of that Act and the Bastardy Laws Amendment Act, 1872; and the said Board issued certain forms accordingly:

And whereas many orders in bastardy have been made which are not in accordance with the forms so issued, or to the like tenor or effect, and in particular the words "for the maintenance and education of the said child" have been omitted from the said orders, and questions have in consequence arisen as to the validity of the same:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Confirmation of orders.

1. An order so made as aforesaid before the passing of this Act shall not be, or be deemed to be, invalid by reason of the omission from such order of the words "for the maintenance and education of the said child," or words to the like tenor or effect.

This Act was passed in consequence of the decision in *Reg.* v. *Padbury*, 5 Q. B. D. 127; 49 L. J. M. C. 55; 28 W. R. 182; 44 J. P. 361. It was there held that a bastardy order directing the payment to be made to the mother, without any provision for its application to the maintenance and education of the child, was invalid.

The Act only renders valid orders made before 26th August, 1880. Orders made since that date must provide that the payments to be made under a bastardy order are for the maintenance and education of the child.

Short title.

2. This Act may be cited as the Bastardy Orders Act, 1880.

Preamble.

THE BURIAL LAWS AMENDMENT ACT, 1880.

43 & 44 VICT. CHAP. 41.

An Act to amend the Burial Laws. [7th September, 1880.]

WHEREAS it is expedient to amend the law of burial in England and the Channel Islands:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

After passing of Act, notice may be given that burial will take place in churchyard or graveyard without the rites of the Church of England.

1. After the passing of this Act any relative, friend, or legal representative having the charge of or being responsible for the burial of a deceased person may give forty-eight hours notice in writing, indorsed on the outside "Notice of Burial," to, or leave or cause the same to be left at the usual place of abode of the rector, vicar, or other incumbent, or in his absence the officiating minister in charge of any parish or ecclesiastical district or place, or any person appointed by him to receive such notice, that it is intended that such deceased person shall be buried within the churchyard or graveyard of such parish or ecclesiastical district or place without the performance, in the manner prescribed by law, of the service for the burial of the dead according to the rites of the Church of England, and after receiving such notice no rector, vicar, incumbent, or officiating minister shall be liable to any censure or penalty, ecclesiastical or civil, for permitting any such burial as aforesaid. Such notice shall be in writing, plainly signed with the name and stating the address of the person giving it, and shall be in the form or to the effect of Schedule (A.) annexed to this Act.

The word "graveyard" in this Act shall include any burial ground or cemetery vested in any burial board, or provided under any Act relating to the burial of the dead, in which the parishioners or inhabitants of any parish or ecclesiastical district have rights of burial; and in the case of any such burial ground or cemetery, if a chaplain is appointed to perform the burial service of the Church of England therein, notice under this Act shall be addressed to such chaplain, but the same shall be given to or left at the office of the clerk of the burial board, if any, in whom any such burial ground or cemetery may be vested: Provided also, that it shall be lawful for the proprietors or directors of any proprietary cemetery or burial ground to make

Section 1. such bye-laws or regulations as may be necessary for enabling any burial to take place therein in accordance with the provisions of this Act, any enactment to the contrary notwithstanding.

The person who is responsible for the burial of a dead body is the occupier of the house in which the death took place. The guardians are not under any legal liability to bury the body of any person who has not died in a workhouse, asylum, or other premises belonging to them (*Reg* v. *Stewart*, 12 A. & E. 773 ; 10 L. J. M. C. 40 ; 4 J. P. 792). A notice under this section is bad if it does not set out the name and address of the person giving it. A notice of burial given under this section contained the name of the plaintiff, but not his address. The vicar at first objected to bury the body on the ground that the churchyard was full, but afterwards room was found. The plaintiff attended with his friends on the day named in the notice, but had to postpone the burial till a future day. He then sued the vicar for the expenses of the abortive funeral on the day named in the notice. Held, that the notice of burial was bad for not setting out the plaintiff's address, and the defect was not waived by the subsequent proceedings of the vicar (*Hoare* v. *Ram*, 45 J. P. 729). As to the giving of this notice for the burial of a pauper, see the next section.

It should be observed with reference to the definition of "graveyard" in the above section, that while parishioners or inhabitants have rights of burial in churchyards and in burial grounds provided under the Burial Acts no such rights exist in cemeteries provided by urban or rural sanitary authorities under the Public Health (Interments) Act, 1879. This Act does not, therefore, apply to such a cemetery. As to the right of the parishioners residing in a parish created under 19 & 20 Vict. c. 104, which has a burial ground of its own, to burial in the old parish churchyard, see *Hughes* v. *Lloyd*, 22 Q. B. D. 157 ; 53 J. P. 310 ; and see also *Jones* v. *Roberts*, *Times* L. R., vol. 5, p. 146, in which a question was raised as to the right of burial in a piece of ground added to a churchyard.

Paupers. **2.** Such notice, in the case of any poor person deceased, whom the guardians of any parish or union are required or authorised by law to bury, may be given to the rector, vicar, or other incumbent in manner aforesaid, and also to the master of any workhouse in which such poor person may have died, or otherwise to the said guardians, by the husband, wife, or next of kin of such poor person, who, for the purposes of this Act, shall be deemed to be the person having the charge of the burial of such deceased poor person ; and in any such case it shall be the duty of the said guardians to permit the body of such deceased person to be buried in the manner provided by this Act.

The guardians are not required by law to bury any person, unless such person has died in a workhouse or other premises belonging to them (*Reg.* v. *Stewart*, *supra*). They are, however, authorised to bury poor persons by 7 & 8 Vict. c. 101, s. 31, which provides that the guardians may bury the body of any poor person which may be within their parish or union, at the expense of the union, and unless the guardians, in compliance with the desire expressed by such person in his life-time, or by any of his relations, or for any other cause, direct the body of such poor person to be buried in the churchyard or burial ground of the parish to which such person has been chargeable (which they are thereby authorised to do), every dead body which the guardians or any of their officers shall direct to be buried at the expense of the poor rates (unless the deceased person, or the husband, or wife, or next of kin of such deceased poor person have otherwise desired), is to be buried in the churchyard or other consecrated burial ground, in or belonging to the parish, division of parish, chapelry, or place in which the

death may have occurred. It is further provided by 28 & 29 Vict. c. 79, s. 10, that, for the purposes of the burial of any poor person dying in the workhouse of any union, such workhouse shall be considered as situated in the parish of the union where such poor person resided last, previously to his removal to the workhouse.

Section 2. NOTE.

3. Such notice shall state the day and hour when such burial is proposed to take place, and in case the time so stated be inconvenient on account of some other service having been, previously to the receipt of such notice, appointed to take place in such churchyard or graveyard, or the church or chapel connected therewith, or on account of any bye-laws or regulations lawfully in force in any graveyard limiting the times at which burials may take place in such graveyard, the person receiving the notice shall, unless some other day or time shall be mutually arranged within twenty-four hours from the time of giving or leaving such notice, signify in writing, to be delivered to or left at the address or usual place of abode of the person from whom such notice has been received, or at the house where the deceased person is lying, at which hour of the day named in the notice, or (in case of burial in a churchyard, if such day shall be a Sunday, Good Friday, or Christmas Day) of the day next following, such burial shall take place; and it shall be lawful for the burial to take place, and it shall take place, at the hour so appointed or mutually arranged, and in other respects in accordance with the notice: Provided that, unless it shall be otherwise mutually arranged, the time of such burial shall be between the hours of ten o'clock in the forenoon and six o'clock in the afternoon if the burial be between the first day of April and the first day of October, and between the hours of ten o'clock in the forenoon and three o'clock in the afternoon if the burial be between the first day of October and the first day of April: Provided also, that no such burial shall take place in any churchyard on Sunday, or on Good Friday or Christmas Day, if any such day being proposed by the notice shall be objected to in writing for a reason assigned by the person receiving such notice.

Time of burial to be stated, subject to variation.

It is provided by 15 & 16 Vict. c. 85, s. 38, that the general management, regulation, and control of a burial ground shall, subject to the provisions of that Act, and the regulations to be made thereunder, be vested in and exercised by the burial board.

Section 1 of this Act (*supra*) enables the proprietors or directors of a proprietary cemetery or burial ground to make bye-laws or regulations for enabling burials to take place therein in accordance with the provisions of this Act.

4. When no such intimation of change of hour is sent to the person from whom the notice has been received, or left at the

Burial to take place accordingly.

Section 4.

house where the deceased person is lying, the burial shall take place in accordance with and at the time specified in such notice.

Regulations and fees.

5. All regulations as to the position and making of the grave which would be in force in such churchyard or graveyard in the case of persons interred therein with the service of the Church of England shall be in force as to burials under this Act; and any person who, if the burial had taken place with the service of the Church of England, would have been entitled by law to receive any fee, shall be entitled, in case of a burial under this Act, to receive the like fee in respect thereof.

The 15 & 16 Vict. c. 85, s. 32, provides that a burial ground provided under that Act shall be deemed to be the burial ground of the parish or parishes for which it is provided; and the incumbent, clerk, or sexton of any parish for which such burial ground has been provided, are to receive their accustomed fees for interments in the consecrated portion of the burial ground as if it were the parish churchyard. Section 35 provides for the division of burial fees between the incumbent of the parish and the incumbent of a district parish, &c. Section 36 provides for the payment of fees payable to churchwardens or other persons for parochial purposes. The 20 & 21 Vict. c. 81, s. 5, provides for the payment of the accustomed fees to the incumbent, clerk, and sexton of a district church in respect of burials in a burial ground provided for that district.

The Cemeteries Clauses Act, 10 & 11 Vict. c. 65, contains provisions for the payment of burial fees to incumbents and clerks of parishes from which bodies have been brought for burial; but that Act applies only to cemeteries under a local Act, or provided under the Act of 1879, as to which, see the note to section 1, *ante*.

Burial may be with or without religious service.

6. At any burial under this Act all persons shall have free access to the churchyard or graveyard in which the same shall take place. The burial may take place, at the option of the person so having the charge of or being responsible for the same as aforesaid, either without any religious service, or with such Christain and orderly religious service at the grave, as such person shall think fit; and any person or persons who shall be thereunto invited, or be authorised by the person having the charge of or being responsible for such burial, may conduct such service or take part in any religious act thereat. The words "Christian service" in this section shall include every religious service used by any church, denomination, or person professing to be Christian.

Burials to be conducted in a decent and orderly manner and without obstruction.

7. All burials under this Act, whether with or without a religious service, shall be conducted in a decent and orderly manner; and every person guilty of any riotous, violent, or indecent behaviour at any burial under this Act, or wilfully obstructing such burial or any such service as aforesaid thereat, or who shall, in any such churchyard or graveyard as aforesaid, deliver any address, not being part of or incidental to a religious

service permitted by this Act, and not otherwise permitted by any lawful authority, or who shall, under colour of any religious service or otherwise, in any such churchyard or graveyard, wilfully endeavour to bring into contempt or obloquy the Christian religion or the belief or worship of any church or denomination of Christians, or the members or any minister of any such church or denomination, or any other person, shall be guilty of a misdemeanour. Section 7.

Powers for prevention of disorder.

8. All powers and authorities now existing by law for the preservation of order, and for the prevention and punishment of disorderly behaviour in any churchyard or graveyard may be exercised in any case of burial under this Act in the same manner and by the same persons as if the same had been a burial according to the rites of the Church of England.

The Acts relating to brawling in churchyards and burial grounds are 5 & 6 Edw. 6, c. 4, and 23 & 24 Vict. c. 32. The latter Act provides that any person who shall be guilty of riotous, violent or indecent behaviour in any church, &c., or in any churchyard or burial ground, or who shall molest, let, disturb, vex, or trouble, or by any other unlawful means disquiet or misuse any preacher duly authorised to preach therein, or any clergyman in holy orders ministering or celebrating any sacrament, or any divine service, rite, or office in any church, &c., or in any churchyard or burial ground, shall, on conviction thereof before two justices of the peace, be liable to a penalty of not more than 5*l.* for every such offence, or may, if the justices before whom he shall be convicted think fit, instead of being subjected to any pecuniary penalty, be committed to prison for any time not exceeding two months. Any such offender may be apprehended immediately by a constable or churchwarden, and taken before a justice. The Cemeteries Clauses Act, 10 & 11 Vict. c. 65, also contains provisions for the prevention of nuisances in the cemetery, but, of course, the application of such provisions is limited.

Act not to give right of burial where no previous right existed.

9. Nothing in this Act shall authorise the burial of any person in any place where such person would have had no right of interment if this Act had not passed, or without performance of any express condition on which, by the terms of any trust deed, any right of interment in any burial ground vested in trustees under such trust deed, not being the churchyard or graveyard, or part of the churchyard or graveyard, of the parish or ecclesiastical district in which the same is situate, may have been granted.

Burials under Act to be registered.

10. When any burial has taken place under this Act the person so having the charge of or being responsible for such burial as aforesaid shall, on the day thereof, or the next day thereafter, transmit a certificate of such burial, in the form or to the effect of Schedule (B.) annexed to this Act, to the rector, vicar, incumbent, or other officiating minister in charge of the parish or district in which the churchyard or graveyard is situate or to which it belongs, or in the case of any burial

Section 10.

ground or cemetery vested in any burial board to the person required by law to keep the register of burials in such burial ground or cemetery, who shall thereupon enter such burial in the register of burials of such parish or district, or of such burial ground or cemetery, and such entry shall form part thereof. Such entry, instead of stating by whom the ceremony of burial was performed, shall state by whom the same has been certified under this Act. Any person who shall wilfully make any false statement in such certificate, and any rector, vicar, or minister, or other such person as aforesaid, receiving such certificate, who shall refuse or neglect duly to enter such burial in such register as aforesaid shall be guilty of a misdemeanour.

As to the person having the charge of, or responsible for the burial, see section 1.

This notice must, in the case of a parish churchyard, be sent to the incumbent; in the case of a burial ground provided under the Burial Acts, to the person appointed to keep the register, under 16 & 17 Vict. c. 134, s. 8; in cemeteries to which the Cemeteries Clauses Act, 10 & 11 Vict. c. 65, s. 32, applies, to the chaplain (in respect of burials in consecrated ground). In all other cemeteries or burial grounds, registers must be kept as provided by 27 & 28 Vict. c. 97.

On a *mandamus* to the rector of a parish to enter in the register of burials the burial of a parishioner who was buried, after due notice, without the rites of the church, the rector pleaded that he was not bound by statute or common law to register any burial. On *demurrer*, it was held that the statute 57 Geo. 3, c. 146, and the above section, made it his duty to register the burial. *Reg.* v. *Hall*, 45 J. P. 436.

Order of coroner or certificate of registrar to be delivered to relative, &c., instead of to person who buries.

11. Every order of a coroner or certificate of a registrar given under the provisions of section seventeen of the Births and Deaths Registration Act, 1874, shall, in the case of a burial under that Act, be delivered to the relative, friend, or legal representative of the deceased, having the charge of or being responsible for the burial, instead of being delivered to the person who buries or performs any funeral or religious service for the burial of the body of the deceased; and any person to whom such order or certificate shall have been given by the coroner or registrar who fails so to deliver or cause to be delivered the same shall be liable to a penalty not exceeding forty shillings, and any such relative, friend, or legal representative so having charge of or being responsible for the burial of the body of any person buried under this Act as aforesaid, as to which no order or certificate under the same section of the said Act shall have been delivered to him, shall, within seven days after the burial, give notice thereof in writing to the registrar, and if he fail so to do shall be liable to a penalty not exceeding ten pounds.

The words "in the case of a burial under *that* Act" should be "in the case of a burial under *this* Act," and the necessary verbal amendment has

Section 11. NOTE.

been made by 44 Vict. c. 2. s. 2, *post*. The 44 Vict. c. 2, s. 1, provides that nothing in the above section shall have, or be deemed in law to have had, the effect of repealing, or in any manner altering any of the provisions contained in the 17th section of the Births and Deaths Registration Act, 1874, in any case whatever, save and except only the case of a burial under the Burial Laws Amendment Act, 1880.

The Births and Deaths Registration Act, 1874, 37 & 38 Vict. c. 88, s. 17, is as follows :—A coroner shall give such order to the relative of the deceased or other person who causes the body to be buried, or to the undertaker or other person having charge of the funeral. The registrar, upon registering any death or upon receiving a written requisition to attend at a house to register a death, or upon receiving such written notice of the occurrence of a death, accompanied by a medical certificate as is before provided by this Act, shall forthwith, or as soon after as he is required, give, without fee or reward, either to the person giving information concerning the death or sending the requisition or notice, or to the undertaker or other person having charge of the funeral of the deceased, a certificate under his hand that he has registered or received notice of the death, as the case may be. Every such order of the coroner and certificate of the registrar shall be delivered to the person who buries or performs any funeral or religious service for the burial of the body of the deceased ; and any person to whom such order or certificate was given by the coroner or registrar who fails so to deliver or cause to be delivered the same shall be liable to a penalty not exceeding forty shillings. The person who buries or performs any funeral or religious service for the burial of any dead body, as to which no order or certificate under this section is delivered to him, shall, within seven days after the burial, give notice thereof in writing to the registrar, and if he fails so to do shall be liable to a penalty not exceeding ten pounds.

The Coroners Act, 1887, 50 & 51 Vict. c. 71, which repeals part of the foregoing section, provides by section 18 (6), that a coroner upon holding an inquest upon any body, may, if he thinks fit, after view of the body, by order under his hand, authorise the body to be buried before verdict and before registry of the death, and shall deliver such order to the relative or other person to whom the same is required by the Registration Acts to be delivered ; but, except upon holding an inquest, no order, warrant, or other document for the burial of a body shall be given by the coroner.

Liberty to use burial service of Church of England in unconsecrated ground.

12. No minister in holy orders of the Church of England shall be subject to any censure or penalty for officiating with the service prescribed by law for the burial of the dead according to the rites of the said church in any unconsecrated burial ground or cemetery or part of a burial ground or cemetery, or in any building thereon, in any case in which he might have lawfully used the same service, if such burial ground or cemetery or part of a burial ground or cemetery had been consecrated. The relative, friend, or legal representative having charge of or being responsible for the burial of any deceased person who had a right of interment in any such unconsecrated ground vested in any burial board, or provided under any Act relating to the burial of the dead, shall be entitled, if he think fit, to have such burial performed therein according to the rites of the Church of England by any minister of the said church who may be willing to perform the same.

Relief of clergy of Church of

13. From and after the passing of this Act, it shall be lawful for any minister in holy orders of the Church of England authorised to perform the burial service, in any case where the office

Section 13. England from penalties in certain cases.

for the burial of the dead according to the rites of the Church of England may not be used, and in any other case at the request of the relative, friend, or legal representative having the charge of or being responsible for the burial of the deceased, to use at the burial such service, consisting of prayers taken from the Book of Common Prayer and portions of Holy Scripture, as may be prescribed or approved of by the Ordinary, without being subject to any ecclesiastical or other censure or penalty.

Saving as to ministers of Church of England.

14. Save as is in this Act expressly provided as to ministers of the Church of England, nothing herein contained shall authorise or enable any such minister who shall not have become a declared member of any other Church or denomination, or have executed a deed of relinquishment under the Clerical Disabilities Act, 1870, to do any act which he would not by law have been authorised or enabled to do if this Act had not passed, or to exempt him from any censure or penalty in respect thereof.

Application of Act.

15. This Act shall extend to the Channel Islands, but shall not apply to Scotland or to Ireland.

Short title of Act.

16. This Act may be cited as the Burial Laws Amendment Act, 1880.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

Notice of Burial.

I , of , being the relative [*or* friend, *or* legal representative, *as the case may be, describing the relation if a relative*] having the charge of or being responsible for the burial of *A.B.*, of , who died at in the parish of on the day of , do hereby give you notice that it is intended by me that the body of the said *A.B.* shall be buried within the [*here describe the churchyard or graveyard in which the body is to be buried*] on the day of , at the hour of , without the performance in the manner prescribed by law of the service for the burial of the dead according to the rites of the Church of England, and I give this notice pursuant to the Burial Laws Amendment Act, 1880.

To the Rector [*or, as the case may be*] of .

SCHEDULE (B.)

I , of , the person having the charge of [*or* being responsible for] the burial of the deceased, do hereby certify that on the day of , *A.B.*, of , aged , was buried in the churchyard [*or* graveyard] of the parish [*or* district] of .

To the Rector [*or, as the case may be*] of .

Preamble.

THE BURIAL AND REGISTRATION ACTS (DOUBTS REMOVAL) ACT, 1881.

44 VICT. CHAP. 2.

An Act to remove Doubts as to the operation and effect of so much of the Burial Laws Amendment Act, 1880, as relates to the Births and Deaths Registration Act, 1874.

[17th February, 1881.]

WHEREAS doubts have arisen as to the operation and effect of the eleventh section of the Burial Laws Amendment Act, 1880, by reason of a clerical error in the first sentence thereof; and it is expedient that such doubts should be removed: 43 & 44 Vict. c. 41.

Be it declared and enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

The meaning and effect of the provisions of this Act have been already stated in the notes to the 43 & 44 Vict. c. 41, s. 11, *ante*.

1. Nothing in the eleventh section of the Burial Laws Amendment Act, 1880, shall have, or be deemed in law to have had, the effect of repealing, or in any manner altering, any of the provisions contained in the seventeenth section of the Births and Deaths Registration Act, 1874, in any case whatever, save and except only the case of a burial under the Burial Laws Amendment Act, 1880. Explanation of 43 & 44 Vict. c. 41, s. 11. 37 & 38 Vict. c. 88. 43 & 44 Vict. c. 41.

2. The words "in the case of a burial under that Act" in the first sentence of section eleven of the Burial Laws Amendment Act, 1880, shall be construed and read as if they had been "in the case of a burial under this Act." Construction of 43 & 44 Vict. c. 41, s. 11.

3. This Act may be cited as the Burial and Registration Acts (Doubts Removal) Act, 1881. Short title.

Preamble.

THE SUMMARY JURISDICTION (PROCESS) ACT, 1881.

44 & 45 VICT. CHAP. 24.

An Act to amend the Law respecting the Service of Process of Courts of Summary Jurisdiction in England and Scotland.

[18th July, 1881.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Summary Jurisdiction (Process) Act, 1881.

This Act shall be deemed to be included in the expressions "Summary Jurisdiction Acts" and "Summary Jurisdiction (English) Acts."

This Act is inserted here for the reasons already stated in the notes to the Summary Jurisdiction Act, 1879, *ante*, p. 23, as they affect some important matters of poor law administration, such as orders of maintenance, bastardy, &c.

Extent of Act.

2. This Act shall not apply to Ireland.

Commencement of Act.

3. This Act shall come into operation on the first day of October, one thousand eight hundred and eighty-one (which day is in this Act referred to as the commencement of this Act).

Service of process of English court in Scotland and of Scotch court in England.

4. Subject to the provisions of this Act, any process issued under the Summary Jurisdiction Acts may, if issued by a court of summary jurisdiction in England and endorsed by a court of summary jurisdiction in Scotland, or issued by a court of summary jurisdiction in Scotland and endorsed by a court of summary jurisdiction in England, be served and executed within the jurisdiction of the endorsing court in like manner as it may be served and executed within the jurisdiction of the issuing court, and that by an officer either of the issuing or of the endorsing court.

For the purposes of this Act—

(1) Any process may be issued and endorsed under the hand of any such person as is declared by this Act to be a court of summary jurisdiction, and may be endorsed upon proof alone of the handwriting of the person issuing it, and such proof may be either on oath or by such solemn declaration as is mentioned in section forty-one of the Summary Jurisdiction Act, 1879, or by any like declaration taken in Scotland before a sheriff, justice of the peace, or other magistrate having

42 & 43 Vict. c. 49.

the authority of a justice of the peace. Such indorsement may be in the form contained in the schedule to this Act annexed, or in a form to the like effect:

(2) Where any process requiring the appearance of a person to answer any information or complaint has been served in pursuance of this section, the court, before issuing a warrant for the apprehension of such person for failure so to appear, shall be satisfied on oath that there is sufficient *primâ facie* evidence in support of such information or complaint:

(3) If the process is to procure the attendance of a witness, the court issuing the process shall be satisfied on oath of the probability that the evidence of such witness will be material, and that the witness will not appear voluntarily without such process, and the witness shall not be subject to any liability for not obeying the process, unless a reasonable amount for his expenses has been paid or tendered to him:

(4) This Act shall not apply to any process requiring the appearance of a person to answer a complaint if issued by an English court of summary jurisdiction for the recovery of a sum of money which is a civil debt within the meaning of the Summary Jurisdiction Act, 1879, or if issued by a Scotch court in a case which falls within the definition of "civil jurisdiction" contained in the Summary Procedure Act, 1864.

See the Summary Jurisdiction Act, 1879, s. 41, *ante*, p. 42, as to proof of declaration of service of process, and section 6 of the same Act, *ante*, p. 24, as to civil debts.

Provision as to execution of process.

5. Where a person is apprehended under any process executed in pursuance of this Act, such person shall be forthwith taken to some place within the jurisdiction of the court issuing the process, and be there dealt with as if he had been there apprehended.

A warrant of distress issued in England when endorsed in pursuance of this Act shall be executed in Scotland as if it were a Scotch warrant of poinding and sale, and a Scotch warrant of poinding and sale when endorsed in pursuance of this Act shall be executed in England as if it were an English warrant of distress, and the enactments relating to the said warrants respectively shall apply accordingly, except that any account of the costs and charges in connection with the execution, or of the money levied thereby or otherwise relating to the execution, shall be made, and any money raised by the execution shall be dealt with in like manner as if the warrant had been executed within the jurisdiction of the court issuing the warrant.

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Provision as to bastardy proceedings in England and Scotland.

6. A court of summary jurisdiction in England and a sheriff court in Scotland shall respectively have jurisdiction by order or decree to adjudge a person within the jurisdiction of the court to pay for the maintenance and education of a bastard child of which he is the putative father, and for the expenses incidental to the birth of such child, and for the funeral expenses of such child, notwithstanding that such person ordinarily resides, or the child has been born, or the mother of it ordinarily resides, where the court is English, in Scotland, or where the court is Scotch, in England, in like manner as the court has jurisdiction in any other case.

Any process issued in England or Scotland to enforce obedience to such order or decree may be endorsed and executed in Scotland and England respectively in manner provided by this Act with respect to process of a court of summary jurisdiction.

Any bastardy order of a court of summary jurisdiction in England may be registered in the books of a sheriff court in Scotland, and thereupon a warrant of arrestment may be issued in like manner as if such order were a decree of the said sheriff court.

The above section does not enable a bastardy summons issued by justices in England to be served on the putative father in Scotland; and therefore where such summons is served in Scotland, and the person so served does not appear at the hearing, the justices have no jurisdiction to make an order. *Berkeley* v. *Thompson*, 10 App. Cas. 45; 54 L. J. M. C. 57; 52 L. T. (N.S.) 1; 33 W. R. 525; 49 J. P. 276.

Saving.

7. This Act shall be in addition to and not in derogation of any power existing under any other Act relating to the execution of any warrant or other process in England and Scotland respectively.

Definitions.

8. In this Act, unless the context otherwise requires,—

The expression "process" includes any summons or warrant of citation to appear either to answer any information or complaint, or as a witness; also any warrant of commitment, any warrant of imprisonment, any warrant of distress, any warrant of poinding and sale, also any order or minute of a court of summary jurisdiction or copy of such order or minute, also an extract decree, and any other document or process, other than a warrant of arrestment, required for any purpose connected with a court of summary jurisdiction to be served or executed.

The expression "Summary Jurisdiction Acts" as regards England has the same meaning as in the Summary Jurisdiction Act, 1879, and as regards Scotland, means the Summary Procedure Act, 1864, and any Act, past or future, amending that Act.

42 & 43 Vict. c. 49.
27 & 28 Vict. c. 53.

The expression "sheriff" shall include sheriff substitute.

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The expression "court of summary jurisdiction" means any justice of the peace, also any officer or other magistrate having the authority in England or Scotland of a justice of the peace, also in Scotland the sheriff.

The expression "officer of a court of summary jurisdiction" means the constable, officer, or person to whom any process issued by the court is directed, or who is by law required or authorised to serve or execute any process issued by the court.

SCHEDULE.

INDORSEMENT IN BACKING A PROCESS.

WHEREAS proof hath this day been made before me, one of Her Majesty's justices of the peace [sheriff *or other magistrate*] for the [county *or* burgh] of , that the name of *A.B.* to the within warrant [*or* summons *or* order *or* minute, *or* copy of order *or* minute *or other document*] subscribed is of the handwriting of the justice of the peace [sheriff *or other magistrate*] within mentioned, I do therefore hereby authorise *C.D.* who bringeth to me this warrant [*or* summons *or* order *or* minute, *or* copy of order *or* minute *or other document*,] and all other persons by whom the same may be lawfully served [*or* executed], and also all constables and other peace officers of the said [county *or* burgh] of to serve and execute the same within the said last-mentioned [county *or* burgh].

Given under my hand this day of , 18 .

THE METROPOLITAN OPEN SPACES ACT, 1881.

44 & 45 VICT. CHAP. 34.

An Act to amend the Metropolitan Open Spaces Act, 1877.

[11th August, 1881.]

WHEREAS by the Metropolitan Open Spaces Act, 1877, certain facilities were provided for making available the open spaces in the metropolis for the use of the inhabitants thereof for exercise and recreation, and it is expedient to amend and extend the said Act, and to provide greater facilities for the purpose aforesaid: 40 & 41 Vict. c. 35.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Interpretation clause.

1. In this Act, unless the context otherwise requires—

"Open space" means any land (whether inclosed or uninclosed) which is not built on, and which is laid out as a garden or is used for purposes of recreation, or lies waste and unoccupied; *but shall not include any inclosed land*

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which has not a public road or footpath completely round the same;

"The Metropolis" means the metropolis as defined by the Metropolis Management Act, 1855;

18 & 19 Vict. c. 120.

"The Metropolitan Board" means the Metropolitan Board of Works as constituted by the same Act;

"Vestry" means a vestry of one of the parishes specified in Schedule A. of the same Act;

"District board" means a board of works of one of the districts specified in Schedule B. of the same Act;

"The corporation" means the mayor and commonalty and citizens of the city of London, and the powers conferred upon them by this Act may be exercised by the mayor, aldermen, and commons of the said city in common council assembled;

The "owner" of a churchyard, cemetery, or burial ground means the person or persons, corporation sole, or body corporate in whom the soil and freehold of such churchyard, cemetery, or burial ground is vested, whether as appurtenant or incident to any benefice or cure of souls, or otherwise.

The term "burial ground" shall include any ground, whether consecrated or not, which has been at any time set apart for the purposes of interment, *and in which interments have taken place since the year* 1800.

The words printed in italics are repealed by the Open Spaces Act, 1887, 50 & 51 Vict. c. 32, s. 2, *post*.

The provisions of this Act, except part of section 6 and sections 10, 11, 12, and 13 are now extended to all urban districts and to every rural sanitary district in respect of which the sanitary authority shall have been invested with the powers of the Act, and to the open spaces and burial grounds in such districts respectively: 50 & 51 Vict. c. 32, s. 5, *post*.

The powers of the Metropolitan Board of Works now devolve on the London County Council by virtue of the Local Government Act, 1888, 51 & 52 Vict. c. 41, s. 40 (8).

Power to trustees to transfer certain open spaces to local authority.

2. Where any open space within the metropolis is under the provisions of any Private or Local Act of Parliament placed under the care and management of trustees or other persons, with a view to the preservation and regulation of the same as a garden or open space, it shall be lawful for the said trustees or other the managing body thereof for the time being, in pursuance of any resolution duly passed as herein-after mentioned, and with the consent, to be signified in manner herein-after appearing, of the owners and occupiers of any houses fronting upon, or the owners or occupiers of which are liable to be specially rated for the maintenance of the open space, to convey,

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assign, or transfer for valuable or nominal consideration, or by way of gift, to the Metropolitan Board, or to the vestry or district board of the parish or district in which such open space or any part thereof is situate, the soil and freehold of, or other their entire interest in, or (where no interest in the soil of such open space is vested in them) the entire care and management of the said open space, to the end that the same may be preserved for the enjoyment of the public; and upon such conveyance, assignment, or transfer such trustees or other managing body shall be relieved and discharged from all trusts, powers, and duties imposed upon them by the Act or other instrument under which they were constituted, or under which they then act or otherwise with reference to the said open space, but shall hold any purchase money paid for or in respect of the said open space in trust for the benefit of the persons or class of persons for whose benefit the said open space was previously preserved and managed by the said trustees, and such persons or class of persons shall be discharged from any special rate or other obligation previously imposed on them in respect of such open space.

It shall be lawful for any such trustees or managing body as aforesaid, in pursuance of any such resolution as aforesaid, and with such consent as aforesaid, for any valuable or nominal consideration, by way of rent or otherwise, or without any consideration, to grant or transfer to the Metropolitan Board, or to any such vestry or district board as aforesaid, any term of years or other limited interest in or any right or easement over such open space, or to enter into any agreement with the Metropolitan Board or any such vestry or district board as aforesaid for the opening to the public of such open space, and the care and management thereof by such board or vestry at all times or at any specified time or times, without the transfer to such board or vestry of any interest in the soil of such open space; and any such grant, demise, transfer, or agreement as aforesaid shall be deemed a good execution of the trusts, powers, and duties imposed upon the said trustees by the Act or other instrument under which they are constituted or act.

A resolution under this section shall be deemed to have been duly passed if at a meeting of the trustees or other the persons constituting such managing body as aforesaid, summoned by at least one month's notice in writing left at or sent by post to their last known or usual place of abode, such resolution shall have been passed by a majority of two-thirds in number of the persons present at such meeting, and if such resolution shall also have been confirmed by two-thirds in number of the persons

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present at a second like meeting, to be summoned by such notice as aforesaid, and to be held at an interval of not less than one calendar month from the first meeting.

The consent of such owners and occupiers of houses as aforesaid shall be held to have been given and signified if, at a meeting of such persons summoned by at least one month's notice in writing given as herein-after directed, a resolution shall have been passed by a majority of at least two-thirds in number of the persons present at such meeting consenting to the conveyance, grant, or transfer of the said open space as aforesaid, or to such an agreement with the Metropolitan Board, vestry, or district board as aforesaid; and if such resolution shall also have been confirmed by two-thirds in number of such owners and occupiers present at a second like meeting, to be summoned in like manner to the first meeting, and to be held at an interval of not less than one calendar month from the first meeting.

Notice of such meeting shall be given by leaving the same or sending the same through the post to every house fronting upon, or the owner or occupier of which is liable to be specially rated for the maintenance of the said open space, and by inserting the same as an advertisement at least three times in any two or more London daily papers, and such notice shall state generally the object of the said meeting, and no such meeting shall be held between the first day of August in one year and the thirty-first day of January in the following year.

For the purposes of this section the owner of a house shall include any person entitled to any term of years therein; and the occupier of a house shall be the person rated to the relief of the poor in respect of the said house.

If at any meeting of such trustees or managing body, or at any meeting of such owners or occupiers as before mentioned, the resolution proposed at any such meeting be not carried, no meeting shall be called or held with the same object in respect to the same garden or open space until the expiration of three years from the day on which such resolution so proposed was rejected at any such meeting as above mentioned.

A conveyance, assignment, demise, grant, or agreement under this section shall be made by an instrument under the common seal of the trustees or other managing body if such body be a corporation, and if it be not a corporation under the hands and seals of any five members of such body, or of all the members thereof if for the time being they be less than five in number.

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The trustees or other the managing body of any such open space as aforesaid may (anything contained in the Act or other instrument under which they are constituted or act to the contrary notwithstanding), in pursuance of any such resolution as aforesaid, and with such consent as aforesaid, signified as aforesaid, admit persons not owning, occupying, or residing in any house fronting on the said open space to the enjoyment of the said open space at all times, or at any specified time or times, and may regulate the admission of such persons thereto on such terms and conditions in all respects as the trustees may think proper.

Any trustees so acting as aforesaid shall have the same power of making bye-laws as that conferred by the fourth section of the Act passed in the twenty-sixth year of Her Majesty, chapter thirteen, intituled "An Act for the protection of certain garden or ornamental grounds in cities and boroughs upon the committee therein mentioned."

Where the freehold of any such open space as is referred to in this section, and the freehold of all or of the major part of the houses round such open space are vested in the same person or persons, the powers conferred by this section shall not be exercised without the consent of such person or persons.

The first paragraph of the above section is amended by 50 & 51 Vict. c. 32, s. 2, *post*, which provides that the purchase money paid for or in respect of the purchase of any open space shall be held in trust, either as in the above section mentioned, or as the case may be, for the benefit of the objects to which any rates previously imposed in respect of such open space had been applied.

For the Metropolitan Board it is now necessary to read the London County Council: 51 & 52 Vict. c. 41, s. 40 (8).

The 26 & 27 Vict. c. 13, s. 4, gives power to make, and from time to time revoke and alter, bye-laws for the management of the same (garden or ground), and for the preservation of the trees, shrubs, plants, flowers, rails, fences, seats, summer-houses, and other things therein, which bye-laws shall be entered in a book kept for the purpose by the (committee), signed by the chairman of the meeting at which the same shall be passed, and taken as evidence of such bye-laws in all courts whatever; and any inhabitant or servant, or other person admitted to such (garden) by any inhabitant, offending against the same, after they shall have been duly allowed as thereinafter provided, upon proof thereof before a magistrate acting for the district in which such (garden) is situate, shall be liable for each offence to a penalty not exceeding 5*l.*: Provided always that such bye-laws shall not come into operation until the same shall have been allowed by some judge of one of the Superior Courts, or by the justices in quarter sessions, and it shall be incumbent on such judge or justices, on the request of such committee, to inquire into any bye-laws tendered to them for that purpose, and to allow or disallow the same as they think fit.

Power to transfer other open space to local authority.

3. The owner of any open space within the metropolis which is subject to rights of user for exercise and recreation (secured by covenant or otherwise) in the owners and occupiers (or either

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of such classes) of any houses round or near the same may, with the consent (to be signified in manner herein-after appearing) of such owners and occupiers of houses, convey to the Metropolitan Board, or to the vestry or district board of the parish or district in which such open space or any part thereof is situate, the soil of the said open space in trust for the enjoyment of the public; and the owner or any person or persons in whom any term of years or other limited interest in such open space is vested may, with the like consent, grant or transfer to the Metropolitan Board or such vestry or district board as aforesaid, in trust as aforesaid, any term of years or other limited interest in or any right or easement over such open space, or enter into any agreement with the Metropolitan Board or any such vestry or district board as aforesaid for the opening to the public of such open space, and the care and management thereof by such board or vestry either at all times or at any specified time or times without the transfer to such board or vestry of any interest in the soil of such open space.

The consent of such owners and occupiers of houses as aforesaid shall be held to have been given and signified if at a meeting of such persons summoned by at least one month's notice in writing (given as herein-after directed) a resolution shall have been passed by a majority of at least two-thirds in number of the persons present at such meeting consenting to the conveyance, grant, or transfer of the said open space as aforesaid, or to such an agreement with the Metropolitan Board, vestry, or district board as aforesaid, and the owner shall be thereupon discharged from any liability to any person entitled to such right of user as aforesaid in respect of any act done in accordance with such resolution.

Notice of such meeting shall be given by leaving the same or sending the same through the post to every house, the owner or occupier of which is entitled to any right of user, and by inserting the same as an advertisement at least three times in any two or more London daily papers, and such notice shall state generally the object of the said meeting; and no such meeting shall be held between the first day of August in one year and the thirty-first day of January in the following year.

For the purposes of this section the owner of an open space shall be any person or persons in whom the soil of the open space is vested for an estate in possession during his or their life or lives or for any larger estate; the owner of a house shall include any person entitled to any term of years therein; and

the occupier of a house shall be the person rated to the relief of the poor in respect of the said house. Section 3.

As already stated in the note to section 1 the provisions of this Act are extended to sanitary authorities. In applying this section the sanitary authority take the place of the Board, and two local newspapers circulating in the sanitary district must be substituted for the London papers. See 50 & 51 Vict. c. 32, s. 5, *post*.

Power to transfer disused burial grounds to local authority.

4. The owner of any churchyard, cemetery, or burial ground situate within the metropolis, and closed for burials either under an order of Her Majesty the Queen in Council, or otherwise, may convey the soil of such churchyard, cemetery, or burial ground, or grant any term of years or other limited interest therein to or enter into any agreement with the Metropolitan Board or the vestry or district board of the parish or district in which such churchyard, cemetery, or burial ground, or any part thereof, is situate for the purpose of giving the public access to the said churchyard, cemetery, or burial ground, and preserving the same as an open space accessible to the public, and under the control of such board or vestry, and for the purpose of improving and laying out the same.

See the Disused Burial Grounds Act, 1884, 47 & 48 Vict. c. 72, and the Open Spaces Act, 1887, 50 & 51 Vict. c. 32, ss. 1—4, *post*.

The expression "owner of a churchyard, &c.," is defined by section 1, *ante*.

Powers and duties of local authority.

5. The Metropolitan Board and the vestry or district board of the parish or district within which any open space, churchyard, cemetery, or burial ground, or any part thereof, is situate may, by agreement, and for valuable or nominal consideration by way of payment in gross or of rent, or otherwise, or without any consideration, take and hold the soil and freehold of, or any term of years or other limited estate or interest in, or any right or easement in or over any open space, churchyard, cemetery, or burial ground, and may, with reference to any open space, churchyard, cemetery, or burial ground, undertake the entire or partial care, management, and control thereof, whether any interest in the soil is transferred to the board or vestry or not, and may for the purposes aforesaid enter into any agreement with the persons authorised by this Act to agree with reference to any open space, churchyard, cemetery, or burial ground or with any other persons interested therein.

Any estate or interest in or control over any open space, churchyard, cemetery, or burial ground acquired by the Metropolitan Board, or any vestry or district board under the provisions of this Act, shall be held and administered by such board

Section 5.

or vestry in trust to allow, and with a view to, the enjoyment by the public of such open space, churchyard, cemetery, or burial ground in an open condition, free from buildings, and under proper control and regulation, and for no other purpose, *but such Metropolitan Board, vestry, or district board shall not allow the playing of any games or sports therein;* and the board or vestry shall maintain and keep the same in a good and decent state, and may inclose or keep the same inclosed with proper railings and gates, and may drain, level, lay out, turf, plant, ornament, light, seat, and otherwise improve the same, and do all such works and things, and employ such officers and servants, as may be requisite for the purposes aforesaid, or any of them.

Provided that no board or vestry shall exercise any of the powers of management in this Act mentioned with reference to any consecrated ground, unless and until they are authorised so to do by the license or faculty in that behalf of the bishop of the diocese in which such consecrated ground is situate, which license or faculty may be granted by such bishop upon the application of the board or vestry, and may extend to the removal of any tombstone or monument, under such conditions and subject to such restrictions as to the bishop may seem fit.

The words in italics are repealed by 50 & 51 Vict. c. 32, *post*, which provides by section 2 (2) that the playing of games may be allowed in the case of consecrated ground by license or faculty from the bishop, and in the case of unconsecrated ground with the sanction of the body from whom the burial ground has been acquired.

As to the removal of tombstones and monuments see 50 & 51 Vict. c. 32 s. 3, *post*.

Bye-laws.

6. The Metropolitan Board and any vestry or district board may, with reference to any open space, churchyard, cemetery, or burial ground in or over which it has acquired any estate, interest, or control under the provisions of this Act, make bye-laws for the regulation thereof, and of the days and times of admission thereto, and the preservation of order and prevention of nuisances therein, and may by such bye-laws impose penalties for the infringement thereof, and provide for the removal of any person infringing any such bye-law by any officer of the board or vestry or police constable.

Bye-laws made under this Act shall be made in the same manner and subject to the same conditions as bye-laws made by the Metropolitan Board or by a vestry or district board, as the case may be, under the Metropolis Management Act, 1885.

The last paragraph of this section does not apply to sanitary districts. Bye-laws made by sanitary authorities are to be made in manner provided by the Public Health Act, 1875. See 50 & 51 Vict. c. 32, s. 5 (1), *post*.

Section 7.

Metropolitan Board and vestry or district board may carry out Act jointly.

7. The Metropolitan Board or any vestry or district board, and where an open space extends into two or more parishes or districts, two or more vestries or district boards, either with or without the Metropolitan Board, may jointly carry out the provisions of this Act, and may enter into any agreement, on such terms as may be arranged between them, for so doing and for defraying the expenses of the execution of the Act, and the Metropolitan Board may defray the whole or any part of the expenses of the execution of this Act by any vestry or district board, and any vestry or district board may similarly defray the whole or any part of the expenses of the Metropolitan Board or, where an open space extends into two or more parishes or districts, of any other vestry or district board.

This section will apply to sanitary authorities. See the note to section 1, *ante*.

Provision for extra-parochial places.

8. Where any open space, churchyard, cemetery, or burial ground, by virtue of any Act of Parliament or otherwise, is extra-parochial, or forms part of some parish other than that which surrounds the same, the vestry or district board acting for the parish surrounding the same may carry out, or may enter into agreement with any one or more vestries or district boards acting for any other parishes, on such terms as may be arranged between them, and may jointly carry out the provisions of this Act, and shall have the same powers in every respect as if such open space, churchyard, cemetery, or burial ground were part of the parish or district of such vestry or district board.

This section will not apply to " ltary authorities. See the note to section 1, *ante*.

Provision for compensation.

9. No estate, interest, or right of a profitable or beneficial nature in, over, or affecting an open space, churchyard, cemetery, or burial ground shall, except with the consent of the body or person entitled thereto, be taken away or injuriously affected by anything done under this Act without compensation being made for the same; and such compensation shall be paid by the Metropolitan Board, vestry, or district board by which such estate, interest, or right is taken away or injuriously affected, and shall, in case of difference, be ascertained and provided in the same manner as if the same compensation were for the compulsory purchase and taking or the injurious affecting of lands under the provisions of the Lands Clauses Consolidation Act, 1845, and any Acts amending the same.

8 & 9 Vict. c. 18.

This section will apply to sanitary authorities. See the note to section 1, *ante*.

Section 10.
Expenses.

10. All expenses incurred under this Act by the Metropolitan Board or by any vestry or district board shall be defrayed out of the funds at their disposal respectively, or which they respectively are empowered to raise under the Metropolis Management Act, 1855, and the several Acts amending the same; and such expenses shall be deemed to be expenses for which provision is made by such Acts.

This section does not apply to sanitary authorities. See 50 & 51 Vict. c. 32, s. 5, *post*. As to the expenses of sanitary authorities in carrying into effect the provisions of this Act, see 50 & 51 Vict. c. 32, s. 8, *post*.

Extent of Act.

11. This Act shall extend only to the metropolis, and shall not extend to the royal parks or to any land belonging to Her Majesty in right of her Crown or of her Duchy of Lancaster, or to any garden, ornamental ground, or ornamental land for the time being under the management of the Commissioners for the time being of Her Majesty's Works and Public Buildings or of the Commissioners for the time being acting under the Crown Estate Paving Act, 1851, or to any metropolitan common within the meaning of the Metropolitan Commons Act, 1866, and the Metropolitan Commons Amendment Act, 1869.

14 & 15 Vict. c. 95.
29 & 30 Vict. c. 122.
32 & 33 Vict. c. 107.

As already stated in the note to section 1, *ante*, the Act is now applied to urban and rural sanitary authorities. See also 50 & 51 Vict. c. 32, s. 5, *post*.

Application in city of London.

12. The powers in this Act conferred on and in relation to the Metropolitan Board, vestries, and district boards shall in the city of London be exercised by and have relation to the corporation, who shall defray, out of the metage of grain duty or otherwise, all the expenses caused by or connected with the execution of such powers by them; and any bye-laws made by the corporation for the regulation of any open space acquired under the powers of this Act shall be made and allowed in manner prescribed by the Corporation of London (Open Spaces) Act, 1878.

41 & 42 Vict. c. cxxvii.

Short title.

13. This Act may be cited as the Metropolitan Open Spaces Act, 1881; and this Act and the Metropolitan Open Spaces Act, 1877, may together be cited as the Metropolitan Open Spaces Acts, 1877 and 1881.

The Open Spaces (Metropolis) Act, 1877, 40 & 41 Vict. c. 35, is, together with the foregoing Act, extended to urban and rural sanitary districts by the 50 & 51 Vict. c. 32, *post*. It enables the Metropolitan Board of Works (now the London County Council) and any vestry or district board (50 & 51 Vict. c. 32, s. 6, *post*), to acquire by purchase or gift any open space, and to hold the same for the benefit of the public. It also enables the

owners and occupiers of houses in whom is vested the property in and right of using any open space for exercise and recreation, to convey to the Metropolitan Board (see above) in trust for the public the right to enter upon and use and enjoy such open space, subject to such terms and conditions as may be agreed upon.

Section 13.
NOTE.

THE ARMY ACT, 1881.

44 & 45 VICT. CHAP. 58.

An Act to consolidate the Army Discipline and Regulation Act, 1879, and the subsequent Acts amending the same.

[27th August, 1881.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited for all purposes as the Army Act, 1881. Short title of Act.

2. This Act shall continue in force only for such time and subject to such provisions as may be specified in an annual Act of Parliament bringing into force or continuing the same. Mode of bringing Act into force.

This Act is continued in force by the annual Army Acts, one of which is passed in each session. It is at present in force by virtue of the Army (Annual) Act, 1889, 52 Vict. c. 3, *post*.

* * * * *

91. (1) A Secretary of State may, if he think proper, on account of a soldier's lunacy, cause any soldier of the regular forces on his discharge, and his wife and child, or any of them, to be sent to the parish or union to which under the statutes for the time being in force he appears, from the statements made in his attestation paper and other available information, to be chargeable; and such soldier, wife, or child, if delivered after reasonable notice, in England or Ireland at the workhouse in which persons settled in such parish or union are received, and in Scotland to the inspector of poor of such parish, shall be received by the master or other proper officer of such workhouse or such inspector of poor, as the case may be: Delivery of lunatic soldier on discharge with his wife or child at workhouse, or of dangerous lunatic at asylum.

Section 91.

(2) Provided that a Secretary of State, where it appears to him that any such soldier is a dangerous lunatic, and is in such a state of health as not to be liable to suffer bodily or mental injury by his removal, may, by order signified under his hand or under the hand of an under-secretary, send such lunatic direct to an asylum, registered hospital, licensed house, or other place in which pauper lunatics can legally be confined, and for the purpose of the said order the above-mentioned parish or union shall be deemed to be the parish or union from which such lunatic is sent.

(3) In England the lunatic shall be sent to the asylum, hospital, house, or place to which a person in the workhouse aforesaid, on becoming a dangerous lunatic, can by law be removed, and an order of the Secretary of State under this section shall be of the same effect as an order by a justice within the meaning of section seventy-two of the Act of the session of the sixteenth and seventeenth years of the reign of Her present Majesty, chapter ninety-seven, intituled "An Act to consolidate and amend the laws for the provision and regulation of lunatic asylums for counties and boroughs, and for the maintenance and care of pauper lunatics in England," and shall be subject accordingly to the provisions of that section.

(4) The Secretary of State, before making the said order in respect of a lunatic who is liable to be delivered to the inspector of poor of a parish in Scotland, may require the inspector of poor of that parish to specify the asylum to which such lunatic if in the parish would be sent, and it shall be the duty of such inspector forthwith to specify such asylum, and thereupon the Secretary of State may make the said order for sending the lunatic to that asylum, and such order shall be of the same effect as an order by the sheriff within the meaning of section eighty-five of the Act of the session of the twentieth and twenty-first years of the reign of Her present Majesty, chapter seventy-one, intituled "An Act for the regulation of, and care and treatment of lunatics, and for the provision, maintenance, and regulation of lunatic asylums in Scotland," and shall be subject accordingly to the provisions of that section.

(5) In the case of any such lunatic, who is liable to be delivered at a workhouse in Ireland, at which persons settled in the said union are received, a Secretary of State may, by order under his hand, send such soldier to the asylum of the district in which such union is situate, and such order shall be of the same effect as a warrant under the hands and seals of two

justices given under the provisions of the tenth section of the Act of the session of the thirtieth and thirty-first years of the reign of Her present Majesty, chapter one hundred and eighteen, intituled "An Act to provide for the appointment of the officers and servants of district lunatic asylums in Ireland, and to alter and amend the law relating to the custody of dangerous lunatics and dangerous idiots in Ireland." Section 91.

The effect of sub-section (2) of the above section is, that a Secretary of State may send the lunatic to an asylum provided under 53 Vict. c. 5, and the costs of his maintenance therein will be payable under section 286, of that Act by the union to which he appears to be chargeable. That union may, however, ascertain his settlement and transfer their liability to his union of settlement or to the county if he has no known settlement under sections 289, 290.

The concluding words of sub-section (3) have been amended by 52 Vict. c. 3, s. 5, *post*, which provides that for the concluding words "and shall be subject accordingly to the provisions of that section," there shall be substituted the words "and the like proceedings shall be taken thereon as on an order under that section." The 16 & 17 Vict. c. 97, s. 72, above referred to, provided that an order for the reception of a lunatic into an asylum may authorise his admission not only into any lunatic asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, but also into any other asylum for the reception of pauper lunatics of such county or borough, and also into any asylum for any other county or borough, or any hospital, registered, or house licensed for the reception of lunatics; but every lunatic shall under every such order be sent to an asylum of the county or borough in which the parish or place from which he is sent is situate, unless there be no such asylum, or there be a deficiency of room, or unless there be some special circumstances by reason whereof such lunatic cannot conveniently be taken to such asylum, which deficiency of room or special circumstances shall be stated in the order for the reception of such lunatic into any asylum other than such asylum as aforesaid, or into any registered hospital or licensed house; and no lunatic shall be sent to any registered hospital or house licensed for the reception of lunatics, by virtue of such order, except there be no such asylum, or no such asylum in which he can be received, or there be some special circumstances by reason whereof he cannot be taken thereto, which shall be stated in like manner as aforesaid. This section was repealed and re-enacted by 53 Vict. c. 5, s. 27.

Sub-sections (4) and (5) are also amended by 52 Vict. c. 3, s. 5, but they relate to Scotland and Ireland respectively.

* * * * *

Provision in case of insane persons.

130.—(1) Where it appears on the trial by court-martial of a person charged with an offence that such person is by reason of insanity unfit to take his trial, the court shall find specially that fact; and such person shall be kept in custody in the prescribed manner until the directions of Her Majesty thereon are known, or until any earlier time at which such person is fit to take his trial.

(2) Where on the trial by court-martial of a person charged with an offence it appears that such person committed the offence, but that he was insane at the time of the commission thereof, the court shall find specially the fact of his insanity,

Section 130. and such person shall be kept in custody in the prescribed manner until the directions of Her Majesty thereon are known.

(3) In either of the above cases Her Majesty may give orders for the safe custody of such person during her pleasure, in such place and in such manner as Her Majesty thinks fit.

(4) A finding under this section shall be subject to confirmation in like manner as any other finding.

(5) If a person imprisoned by virtue of this Act becomes insane, then, without prejudice to any other provision for dealing with such insane prisoner, a Secretary of State in any case, and in the case of a prisoner confined in India the Governor-General of India, or the governor of any presidency in which the person is confined, and in the case of a prisoner confined in a colony the governor of that colony, may, upon a certificate of such insanity by two qualified medical practitioners, order the removal of such prisoner to an asylum or other proper place for the reception of insane persons in the United Kingdom, India, or the colony, according as the prisoner is confined in the United Kingdom, India, or the colony, there to remain for the unexpired term of his imprisonment, and, upon such person being certified in the like manner to be again of sound mind, may order his removal to any prison in which he might have been confined if he had not become insane, there to undergo the remainder of such punishment.

The Criminal Lunatics Act, 1884, repeals so much of sub-section (5) of the above section as relates to a person imprisoned in England. That Act is set out, *post*, and contains the provisions now applicable to the detention, maintenance, and discharge of criminal lunatics.

* * * * *

Exemption of soldiers in respect of civil process.

144.—(1) A soldier of Her Majesty's regular forces shall not be liable to be taken out of Her Majesty's service by any process, execution, or order of any court of law or otherwise, or to be compelled to appear in person before any court of law, except in respect of the following matters, or one of them; that is to say,

(*a*) On account of a charge of or conviction for crime; or

(*b*) On account of any debt, damages, or sum of money, when the amount exceeds thirty pounds over and above all costs of suit.

(2) For the purposes of this section a crime shall mean a felony, misdemeanor, or other crime or offence punishable, according to the law in force in that part of Her Majesty's

dominions in which such soldier is, with fine or imprisonment or some greater punishment, and shall not include the offence of a person absenting himself from his service, or neglecting to fulfil his contract, or otherwise misconducting himself respecting his conduct. Section 144.

(3) For the purposes of this section a court of law shall be deemed to include a court of summary jurisdiction and any magistrate.

(4) The amount of the debt, damages, or sum shall be proved for the purpose of any process issued before the court has adjudicated on the case by an affidavit of the person seeking to recover the same or of some one on his behalf, and such affidavit shall be sworn, without payment of any fee, in the manner in which affidavits are sworn in the court in which proceedings are taken for the recovery of the sum, and a memorandum of such affidavit shall, without fee, be indorsed upon any process or order issued against a soldier.

(5) All proceedings and documents in or incidental to a process, execution, or order in contravention of this section shall be void; and where complaint is made by a soldier or his commanding officer that such soldier is dealt with in contravention of this section by any process, execution, or order issued out of any court, and is made to that court or to any court superior to it, the court or some judge thereof shall examine into the complaint, and shall, if necessary, discharge such soldier without fee, and may award reasonable costs to the complainant, which may be recovered as if costs had been awarded in his favour in any action or other proceeding in such court.

Provided that—

(1) Any person having cause of action or suit against a soldier of the regular forces may, notwithstanding anything in this section, after due notice in writing given to the soldier, or left at his last quarters, proceed in such action or suit to judgment, and have execution other than against the person, pay, arms, ammunition, equipments, regimental necessaries, or clothing of such soldier; and

(2) This section shall not prevent such proceeding with respect to apprentices and indentured labourers as is authorised by this Act.

This section is printed above as amended by 45 Vict. c. 7, s. 4, *post*. The amendment is verbal only.

Section 145.

Liability of soldier to maintain wife and children.

145. (1) A soldier of the regular forces shall be liable to contribute to the maintenance of his wife and of his children, and also to the maintenance of any bastard child of which he may be proved to be the father, to the same extent as if he were not a soldier; but execution in respect of any such liability or of any order or decree in respect of such maintenance shall not issue against his person, pay, arms, ammunition, equipments, instruments, regimental necessaries, or clothing; nor shall he be liable to be punished for the offence of deserting or neglecting to maintain his wife or family, or any member thereof, or of leaving her or them chargeable to any union, parish, or place.

(2) When any order decree is made under any Act or at common law for payment by a soldier of the regular forces either of the cost of the maintenance of his wife or child, or of any bastard child of whom he is the putative father, or of the cost of any relief given to his wife or child by way of loan, a copy of such order or decree shall be sent to a Secretary of State, and in the case—

(*a*) Of such order or decree being so sent; or

(*b*) Of it appearing to the satisfaction of a Secretary of State that a soldier of the regular forces has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age,

the Secretary of State may order a portion not exceeding sixpence of the daily pay of a non-commissioned officer who is not below the rank of sergeant, and not exceeding threepence of the daily pay of any other soldier, to be deducted from such daily pay, and to be appropriated, in the first case, in liquidation of the sum adjudged to be paid by such order or decree, and in the second case, towards the maintenance of such wife or children, in such manner as the Secretary of State thinks fit.

(3) Where a proceeding is instituted against a soldier of the regular forces under any Act, or at common law, for the purpose of enforcing against him any such liability as above in this section mentioned, and such soldier is quartered out of the jurisdiction of the court, or, if the proceeding is before a court of summary jurisdiction, out of the petty sessional division in which the proceeding is instituted, the process shall be served on the commanding officer of such soldier, and such service shall not be valid unless there be left therewith, in the hands of the commanding officer, a sum of money (to be adjudged as costs

incurred in obtaining the order or decree, if made against the soldier) sufficient to enable him to attend the hearing of the case and return to his quarters, and such sum may be expended by the commanding officer for that purpose; and no process whatever under any Act or at common law in any proceeding in this section mentioned shall be valid against a soldier of the regular forces if served after such soldier is under orders for service beyond the seas. Section 145.

A person is liable to contribute to the maintenance of his wife and children under 43 Eliz. c. 2, s. 7, and 31 & 32 Vict. c. 122, s. 33. Under the first of these Acts justices are empowered to make an order for the relief of every poor, old, blind, lame, impotent, or other poor person not able to work, upon the father or grandfather of such poor person, being of sufficient ability. It must appear that the children are unable to work (*R.* v. *Gully*, 4 Burn. 296); but this statute applies to lawful children or grandchildren only (*R.* v. *Dempson*, 2 Str. 955; *R.* v. *Maude*, 6 Jur. 646). Under the latter Act a husband may be ordered to contribute to the support of his wife if she becomes chargeable. Several cases have been decided with reference to this enactment. In *Thomas* v. *Alsop*, 5 Q. B. D. 191; 39 L. T. (N.S.) 43; 34 J. P. 625, it was held that an order might be made if the wife left her husband on account of ill-treatment, notwithstanding an offer on his part to take her back, it being for the justices to decide whether the wife had left for good cause, and was justified in refusing to return. See, to the same effect, *Fordham* v. *Young*, 53 J. P. 133. It has also been held that although the guardians have not fixed any sum for the future relief of the wife, but have given her a small weekly sum, the justices may order the husband to pay for her maintenance such weekly sum, as considering the condition of the husband and all the circumstances may be proper, although it may exceed the amount of relief previously given to her by the guardians. It has also been held that the adultery of the wife, if not condoned, is an answer to proceedings by the guardians under this section (*Culley* v. *Charman*, 7 Q. B. D. 89; 50 L. J. M. C. 111; 29 W. R. 803; 45 J. P. 768). A wife who has been deserted may also take proceedings against her husband to compel him to maintain her under the Married Women (Maintenance in Case of Desertion) Act, 1886, 49 & 50 Vict. c. 52. The offence of deserting or neglecting to maintain a wife or family referred to in sub-section (1) is that created by the Vagrant Act, 5 Geo. 4, c. 83, ss. 3, 4.

It should be mentioned that, notwithstanding the provision in the text, if a warrant is issued against a soldier for deserting his wife, the soldier will be discharged and handed over to the constable who presents the warrant. See the Queen's Regulations, 1885, s. 19, par. 179.

Relief by way of loan is recoverable in the county court under 11 & 12 Vict. c. 110, s. 8. It will be remembered that relief given to a wife or to any child under the age of sixteen not being blind, or deaf, or dumb is to be considered as given to the husband or father, and that a step-father is liable for the support of his wife's children, legitimate or illegitimate, while the mother is alive and the children are under the age of sixteen (4 & 5 Will. 4, c. 76, ss. 56, 57). By section 58 of the same Act, any relief to a wife or children under sixteen which the Local Government Board shall by order direct to be given or considered as given by way of loan is declared to be a loan to the recipient, and by the Out-door Relief Prohibitory Order of 21st December, 1844, any out-door relief given under that order to a person or to his wife or family may, if the guardians think fit, be given by way of loan. A similar provision is contained in the Out-door Relief Regulation Order of 14th December, 1852.

Sub-section (2) has been amended by 46 Vict. c. 7, s. 7, *post*, which now makes it obligatory upon the Secretary of State to make an order under that sub-section.

Section 146. Officers not to be sheriffs or mayors.

146. A person who is commissioned and in full pay as an officer in Her Majesty's regular forces shall not be capable of being nominated or elected to be sheriff of any county, borough, or other place, or to be mayor or alderman of, or to hold any office in, any municipal corporation in any city, borough, or place in the United Kingdom.

This section is amended by 52 Vict. c. 3, s. 6, *post*, and is extended to all officers of the regular forces on the active list within the meaning of any royal warrant for regulating the pay and promotion of the regular forces.

Exemption from jury.

147. Every soldier in Her Majesty's regular forces shall be exempt from serving on any jury.

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THE ARMY (ANNUAL) ACT, 1882.

45 VICT. CHAP. 7.

An Act to provide, during twelve months, for the Discipline and Regulation of the Army. [28th April, 1882.]

* * * * *

Short title.

1. This Act may be cited as the Army (Annual) Act, 1882.

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Amendments of Army Act, 1881.

* * * * *

4.

(4) In section one hundred and forty-four of the Army Act, 1881, the words "respecting his contract" shall be substituted for the words "respecting his conduct," in the second sub-section.

(5) In section one hundred and forty-five of the Army Act, 1881, the words "when any order or decree," shall be substituted for the words "when any order, decree," in the second sub-section.

The effect of these amendments has already been stated in the notes to the Army Act, 1881, 44 & 45 Vict. c. 58, *ante*.

* * * * *

Printing of amendments. See 33 & 34 Vict. c. 101.

6. In all copies of the Army Act, 1881, which may be printed after the commencement of this Act the words by this Act directed to be substituted for other words shall be printed therein in lieu of the latter words, and the words directed by this Act to be added shall be added thereto.

Preamble.

THE COMMONABLE RIGHTS ACT, 1882.

45 VICT. CHAP. 15.

An Act to provide for the better application of Moneys paid by way of Compensation for the compulsory acquisition of Common Lands and extinguishment of Rights of Common.

[19th June, 1882.]

WHEREAS under the provisions of the Lands Clauses Consolidation Act, 1845, and of railway and other special Acts of Parliament, money is directed or authorised to be paid to a committee as compensation for the extinction of commonable rights or for lands, being common lands or in the nature thereof, the right to the soil of which belongs to the commoners: 8 & 9 Vict. c. 18.

And by the Lands Clauses Consolidation Act, 1845, and by the Inclosure Act, 1852, and the Inclosure Act, 1854, certain powers of apportioning and otherwise dealing with such money are conferred upon any such committee and upon the Inclosure Commissioners for England and Wales (herein-after called the Commissioners), but such powers are found in practice to be insufficient, and money paid by way of compensation as aforesaid is often in consequence useless to the persons interested therein: 15 & 16 Vict. c. 79. 17 & 18 Vict. c. 97.

And whereas it is expedient to give such powers of dealing with such compensation money as are herein-after specified, but such powers cannot be conferred without the sanction of Parliament:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Commonable Rights Compensation Act, 1882. Short title.

2.—(1) With respect to any money which has been or hereafter may be paid by any railway or other public company or corporate body or otherwise under the provisions of the Lands Clauses Act and any Act incorporated therewith, or of any other Act of Parliament to a committee of commoners as compensation for the extinguishment of commonable or other rights or for lands being common lands or in the nature thereof Application of compensation money for common lands.

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the right to the soil of which may belong to the commoners, the committee (or a majority in number thereof) or, after the expiration of twelve months from the payment of such money to the committee, any three of the persons claiming to be interested in such money may make application in writing to the Commissioners to call a meeting of the persons interested in such money to consider the application thereof, and the Commissioners shall call a meeting accordingly, and at such meeting the majority in number and the majority in respect of interest of the persons present may decide by resolution that such money shall be applied and laid out in one or more of the following ways:

(*a*) In the improvement of the remainder of the common land in respect of a portion of which such money has been paid;

(*b*) In defraying the expense of any proceedings under the Metropolitan Commons Acts or under the Inclosure Acts, 1845 to 1878, with reference to a scheme for the local management, or a Provisional Order for the regulation, of such common land, or of any application to Parliament for a Private Bill or otherwise for the preservation and management of such common land as an open space;

8 & 9 Vict. c. 118, &c.

(*c*) In defraying the expense of any legal proceedings for the protection of such common land, or the commoners' rights over the same;

(*d*) In the purchase of additional land to be used as common land;

(*e*) In the purchase of land to be used as a recreation ground for the neighbourhood;

and any such resolution shall bind the minority and all absent parties, and the Commissioners shall make an order under their seal for the payment to them of any expenses incurred by them in relation to the matter, and (subject to such payment) for the application of the money according to such resolution, and the committee or the persons in whose names such money stands or is invested, or the survivors or survivor in account of such persons, or the legal personal representative of such survivor, shall, upon service of any such order of the Commissioners as aforesaid upon them or any of them or any person on their behalf as the Commissioners may direct, pay and apply the said money or realise any security in which the same is invested, and pay and apply the proceeds thereof in manner directed by the said order.

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(2) Any land so purchased as aforesaid for use as common land shall be conveyed to and vest in trustees upon trusts for the persons interested, such trustees to be appointed, and such trusts, and the powers and duties of the trustees, and provisions for the appointment of new trustees from time to time to be declared and provided by an order under the seal of the Commissioners, pursuant to resolutions to be passed at a special meeting of the persons interested, convened by the said Commissioners by such majorities as aforesaid.

(3) Every appointment of a new trustee or of new trustees, in pursuance of this Act, shall be subject to confirmation by the Commissioners under their seal, and upon such confirmation the land shall vest in the remaining and the newly appointed trustees without any conveyance.

(4) The Commissioners shall publish such notice of any meeting held under this Act, and frame such rules and give such directions for the conduct of such meetings and the service of orders made by them under this Act as they may deem fit, and may, if they think fit, direct an assistant commissioner appointed by them to preside at any such meeting, and any such meeting may be adjourned from time to time.

(5) Any land so purchased as aforesaid for use as recreation ground shall be conveyed to and vest in the local authority as specified in the schedule to this Act for the district within which such land is situate, and shall be held and managed by such local authority, subject to and in accordance with the provisions relating to recreation grounds respectively contained in the Inclosure Acts, 1845 to 1878.

The provisions of the Lands Clauses Act, 1845, above referred to are as follows:

And with respect to any such lands, being common or waste lands, be it enacted as follows:

XCIX. The compensation in respect of the right in the soil of any lands subject to any rights of common shall be paid to the lord of the manor, in case he shall be entitled to the same, or to such party, other than the commoners, as shall be entitled to such right in the soil; and the compensation in respect of all other commonable and other rights in or over such lands, including therein any commonable or other rights to which the lord of the manor may be entitled, other than his right in the soil of such lands, shall be determined and paid and applied in manner hereinafter provided with respect to common lands the right in the soil of which shall belong to the commoners; and upon payment or deposit in the bank of the compensation so determined all such commonable and other rights shall cease and be extinguished.

C. Upon payment or tender to the lord of the manor, or such other party as aforesaid, of the compensation which shall have been agreed upon or determined in respect of the right in the soil of any such lands, or on deposit thereof in the bank in any of the cases hereinbefore in that behalf

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provided, such lord of the manor, or such other party as aforesaid, shall convey such lands to the promoters of the undertaking, and such conveyance shall have the effect of vesting such lands in the promoters of the undertaking in like manner as if such lord of the manor, or such other party as aforesaid, had been seised in fee simple of such lands at the time of executing such conveyance; and in default of such conveyance it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect whereof such last-mentioned compensation shall have been deposited as aforesaid shall vest absolutely in the promoters of the undertaking, and they shall be entitled to immediate possession thereof, subject nevertheless to the commonable and other rights theretofore affecting the same, until such rights shall have been extinguished by payment or deposit of the compensation for the same in manner hereinafter provided.

CI. The compensation to be paid with respect to any such lands being common lands, or in the nature thereof, the right to the soil of which shall belong to the commoners, as well as the compensation to be paid for the commonable and other rights in or over common lands the right in the soil whereof shall not belong to the commoners, other than the compensation to the lord of the manor, or other party entitled to the soil thereof, in respect of his right in the soil thereof, shall be determined by agreement between the promoters of the undertaking and a committee of the parties entitled to commonable or other rights in such lands, to be appointed as next hereinafter mentioned.

CII. It shall be lawful for the promoters of the undertaking to convene a meeting of the parties entitled to commonable or other rights over or in such lands to be held at some convenient place in the neighbourhood of the lands, for the purpose of their appointing a committee to treat with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable or other rights; and every such meeting shall be called by public advertisement, to be inserted once at least in two consecutive weeks in some newspaper circulating in the county or in the respective counties and in the neighbourhood in which such lands shall be situate, the last of such insertions being not more than fourteen nor less than seven days prior to any such meeting; and notice of such meeting shall also, not less than seven days previous to the holding thereof, be affixed upon the door of the parish church where such meeting is intended to be held, or if there be no such church some other place in the neighbourhood to which notices are usually affixed; and if such lands be parcel or holden of a manor, a like notice shall be given to the lord of such manor.

CIII. It shall be lawful for the meeting so called to appoint a committee, not exceeding five in number, of the parties entitled to any such rights; and at such meeting the decision of the majority of the persons entitled to commonable rights present shall bind the minority and all absent parties.

CIV. It shall be lawful for the committee so chosen to enter into an agreement with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable and other rights, and all matters relating thereto, for and on behalf of themselves and all other parties interested therein; and all such parties shall be bound by such agreement; and it shall be lawful for such committee to receive the compensation so agreed to be paid, and the receipt of such committee, or of any three of them, for such compensation, shall be an effectual discharge for the same; and such compensation, when received, shall be apportioned by the committee among the several persons interested therein, according to their respective interests, but the promoters of the undertaking shall not be bound to see to the apportionment or to the application of such compensation, nor shall they be liable for the misapplication or non-application thereof.

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CV. If upon such committee being appointed they shall fail to agree with the promoters of the undertaking as to the amount of the compensation to be paid as aforesaid, the same shall be determined as in other cases of disputed compensation.

CVI. If, upon being duly convened by the promoters of the undertaking, no effectual meeting of the parties entitled to such commonable or other rights shall take place, or if, taking place, such meeting fail to appoint such committee, the amount of such compensation shall be determined by a surveyor, to be appointed by two justices, as hereinbefore provided in the case of parties who cannot be found.

CVII. Upon payment or tender to such committee, or any three of them, or if there shall be no such committee then upon deposit in the bank in the manner provided in the like case of the compensation which shall have been agreed upon or determined in respect of such commonable or other rights, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of which such compensation shall have been so paid or deposited shall vest in the promoters of the undertaking, freed and discharged from all such commonable or other rights, and they shall be entitled to immediate possession thereof; and it shall be lawful for the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, by an order to be made upon petition, to order payment of the money so deposited to a committee to be appointed as aforesaid, or to make such other order in respect thereto, for the benefit of the parties interested, as it shall think fit.

The commissioners referred to in the text were originally the Enclosure Commissioners, afterwards the Land Commissioners (48 & 49 Vict. c. 38, s. 48), but the duties of these commissioners are now transferred to the Board of Agriculture under 52 & 53 Vict. c. 30. The local authority referred to in sub-section 5 are, in rural districts, the churchwardens and overseers of the parish. The provisions of the Inclosure Acts relating to recreation grounds are contained in 8 & 9 Vict. c. 118, ss. 34, 72, 73, 74, 92; 9 & 10 Vict. c. 70, s. 4; 15 & 16 Vict. c. 79, s. 14; 20 & 21 Vict. c. 31, ss. 12, 13; 39 & 40 Vict. c. 56, ss. 7, 12, 22—29; 42 & 43 Vict. c. 37, *ante*, p. 17.

Application of compensation money for recreation grounds and field gardens.

3. Any moneys heretofore paid or hereafter to be paid by any railway or other public company or body corporate or otherwise under the provisions of the Lands Clauses Act, 1845, and any Act incorporated therewith, or of any other Act of Parliament, to any local authority as specified in the schedule to this Act, or to the churchwardens and overseers of a parish in respect of any recreation ground or allotment for field gardens taken under the powers of any such Act or Acts of Parliament shall be applied in manner provided by the Inclosure Acts, 1845 to 1878, as amended by the Commons Act, 1879, with respect to the surplus rents arising from recreation grounds and field gardens respectively.

42 & 43 Vict. c. 37.

See as to these surplus rents, the note to 42 & 43 Vict. c. 37, *ante*, p. 17.

Provision for cases where money paid

4. In any case where money paid by way of compensation as aforesaid, has, before the passing of this Act, been applied in

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by way of compensation has already been applied in the manner authorised by this Act.

any one or more of the ways authorised by this Act, a resolution may be passed, at any meeting of the persons interested, called by the Commissioners in manner provided by this Act, by such majorities as aforesaid approving of such application, and such application shall, upon the allowance of such resolution by the Commissioners under their seal, be deemed to have been lawfully made under the provisions of this Act; and the committee or other persons by whom such money has been so applied shall thereupon be discharged from all liability in respect of such money so applied. And the provisions in this Act contained with respect to the declaration of trusts, and the powers and duties of trustees, and the appointment of new trustees, from time to time, shall apply in every case in which such money has, before the passing of this Act, been laid out in the purchase of land.

Deposit of orders.

5. Copies of all orders made by the Commissioners under this Act shall be deposited and kept in like manner as copies of an award are by the Inclosure Act, 1845, directed to be deposited and kept.

Exception of the New Forest.

6. This Act shall not extend to the New Forest.

SCHEDULE.

Situation of Land.	Local Authority.
Within the Metropolis - - -	The Metropolitan Board of Works.
Not within the Metropolis, but within the district of an urban sanitary authority as defined by the Public Health Act, 1875, or any Act amending the same.	The urban sanitary authority.
Elsewhere than within the Metropolis or the district of an urban sanitary authority as above defined.	The churchwardens and overseers of the parish.

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THE INTERMENTS (*FELO DE SE*) ACT, 1882.

45 & 46 VICT. CHAP. 19.

An Act to amend the law relating to the interment of any person found *felo de se*. [3rd July, 1882.]

WHEREAS it is expedient that the laws and usages relating to the interment of the remains of persons against whom a finding of *felo de se* shall be had should be further altered and amended:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Repeal of 4 Geo. 4, c. 52.

1. The Act of the fourth year of George the Fourth, chapter fifty-two, intituled "An Act to alter and amend the law relating to the interment of the remains of any person found *felo de se*," shall be and the same is hereby repealed.

Coroner to give directions for interment.

2. From and after the passing of this Act it shall not be lawful for any coroner or other officer having authority to hold inquests to issue any warrant or other process directing the interment of the remains of persons against whom a finding of *felo de se* shall be had in any public highway, or with any stake being driven through the body of such person, but such coroner or other officer shall give directions for the interment of the remains of such person *felo de se* in the churchyard or other burial ground of the parish or place in which the remains of such person might by the laws or custom of England be interred if the verdict of *felo de se* had not been found against such person.

The body of a person in respect of whom a verdict of *felo de se* has been found, must therefore be buried in the parish churchyard, or in a burial ground provided under the Burial Acts. See note to 43 & 44 Vict. c. 41, s. 1, *ante*, p. 72.

Interment. 43 & 44 Vict. c. 41.

3. The interment of any such person as aforesaid may be made in any of the ways prescribed or authorised by the Burial Laws Amendment Act, 1880.

See this Act, *ante*, p. 71.

Rights of Christian burial not to

4. Save as aforesaid, nothing herein contained shall authorise the performing of any of the rites of Christian burial on the

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interment of the remains of any such person as aforesaid, or be taken to alter the laws or usages relating to the burial of such persons.

Extent of Act.

5. This Act shall extend to the Channel Islands, but shall not apply to Scotland or to Ireland.

Short title.

6. This Act may be cited as the Interments (*felo de se*) Act, 1882.

THE POOR RATE ASSESSMENT AND COLLECTION ACT, 1869, AMENDMENT ACT, 1882.

45 & 46 VICT. CHAP. 20.

An Act to amend the Poor Rate Assessment and Collection Act, 1869. [3rd July, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act shall be called the Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882.

Interpretation. 32 & 33 Vict. c. 41.

2. This Act and the Poor Rate Assessment and Collection Act, 1869, as amended, shall be read as one Act.

Payment of rates by outgoing occupier to be proportionate to time of occupation.

3. The provisions of the sixteenth section of the Poor Rate Assessment and Collection Act, 1869, so far as regards the payment of rates by an outgoing occupier, shall extend and apply to any outgoing occupier assessed in the rate, and such outgoing occupier shall only be liable to pay so much of the rate as shall be proportionate to the time of his occupation within the period for which the rate was made, notwithstanding he may not be succeeded in his occupation by an incoming tenant.

The 32 & 33 Vict. c. 41, s. 16 (as amended by 46 & 47 Vict. c. 39) provides as follows:—If the occupier assessed in the rate when made shall cease to occupy before the rate shall have been wholly discharged, or if the hereditaments being unoccupied at the time of the making of the rate become occupied during the period for which the rate is made, the overseers shall enter in the rate-book the name of the person who succeeds or comes into the occupation, as the case may be, and the date when such occupation commences, so far as the same shall be known to them, and such occupier shall thenceforth be deemed to have actually been rated from the date so entered by the overseer, and shall be liable to pay so much of the rate as shall be

proportionate to the time between the commencement of his occupation and the expiration of the period for which the rate was made, in like manner and with the like remedy of appeal, as if he had been rated when the rate was made; and an outgoing occupier shall remain liable in like manner for so much and no more of the rate as is proportionate to the time of his occupation within the period for which the rate was made. It was decided that this section did not relieve an occupier who was assessed in a poor rate, but ceased to occupy before the rate had been fully discharged from his liability to pay the whole rate unless there was some tenant who succeeded to the occupation of the hereditament so as to become liable to pay a proportionate part of the rate: *St. Werburgh (Overseers of)* v. *Hutchinson*, 5 Ex. D. 19; 49 L. J. M. C. 23; 42 L. T. (N.S.) 153; 43 J. P. 785; *Hare* v. *Putney (Overseers of)*, 7 Q. B. D. 223; 45 L. T. (N.S.) 337; 46 J. P. 100. The provision in the text was passed in consequence of these decisions.

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It has never yet been expressly decided whether an occupier who has paid the whole rate, and has ceased to occupy during the currency of the rate, is entitled to have a proportionate part of the rate refunded to him. It is submitted, however, that he is so entitled.

Publication of rate where no parish church.

4. In a parish in which there is no church or chapel of the parish, a poor rate, whether made before or after the passing of this Act, shall be deemed to have been duly published if, within fourteen days after the making of the rate, notice thereof has been given by affixing such notice in some public and conspicuous place or situation in the parish.

By 17 Geo. 2, c. 3, s. 1, public notice of every rate for the relief of the poor shall be given in the parish church the next Sunday after the allowance of the rate by the justices, and no rate shall be esteemed or reputed valid, and sufficient so as to collect or raise the same, unless such notice shall have been given. By 7 Will. 4 and 1 Vict. c. 45, a written notice, to be affixed on the doors of all the churches or chapels in the parish is substituted for any notice theretofore, by any law or statute, given in churches or chapels. By 20 Vict. c. 19, s. 1, every extra-parochial place wherein no rate is levied for the relief of the poor shall, for all purposes of assessment to the poor rate and the relief of the poor, be deemed a parish. Upon these provisions it was held that a rate could not be collected under the following circumstances:—The overseer of a parish which, before the passing of 20 Vict. c. 19, was an extra-parochial place, made a rate for the relief of the poor, but did not publish any notice of the rate within the parish, there being no church or chapel within the parish: *Reg.* v. *Dyott*, 9 Q. B. D. 47; 47 J. P. 54. The provision in the text was passed in consequence of this decision.

THE PLACES OF WORSHIP SITES AMENDMENT ACT, 1882.

45 & 46 VICT. CHAP. 21.

An Act to amend the Places of Worship Sites Act, 1873.

[12th July, 1882.]

WHEREAS by the Places of Worship Sites Act, 1873, facilities are afforded for the conveyance of pieces of land not exceeding in quantity one acre for sites for places of religious worship and

36 & 37 Vict. c. 50.

Preamble.

for burial places, but doubts have been entertained whether conveyances can be made under that Act by corporations and public bodies, and it is expedient to remove such doubts:

And whereas cases have arisen in which tenants for life are unable to make conveyances under the said Act by reason that the person next entitled to the manor or lands for a beneficial interest in fee simple or fee tail is unborn or unascertained; and it is expedient to grant increased facilities for making such conveyances:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Conveyance of lands by corporations and other public bodies.

1. The Places of Worship Sites Act, 1873, shall be construed as extending to authorise any corporation, ecclesiastical or lay, whether sole or aggregate, and any officers, justices of the peace, trustees, or commissioners holding land for public, ecclesiastical, parochial, charitable, or other purposes or objects, to grant, convey, or enfranchise for the purposes of the Act such quantity of land as therein mentioned: Provided as follows:

(*a.*) An ecclesiastical corporation sole, being below the dignity of a Bishop, shall not make any such grant without the consent in writing of the Bishop of the diocese to whose jurisdiction he is subject:

(*b.*) A municipal corporation shall not make any such grant without the consent in writing of the Commissioners of Her Majesty's Treasury:

(*c.*) Parochial property shall not be so granted without the consent of a majority of the ratepayers and owners of property in the parish to which the property belongs, assembled at a meeting to be convened according to the mode pointed out in the Act of the session held in the fifth and sixth years of the reign of King William the Fourth, chapter 69, intituled "An Act to facilitate the conveyance of workhouses and other property of parishes, and of incorporations or unions of parishes in England and Wales," and of the Local Government Board and of the guardians of the poor of the parish or of the union comprising the parish, testified by their being parties to the conveyance:

5 & 6 Will. 4, c. 69.

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(*d.*) Property held on trust for charitable purposes shall not be so granted without the consent of the Charity Commissioners for England and Wales.

The 36 & 37 Vict. c. 50, enables the owners of lands to convey any quantity, not exceeding an acre of such land, as a site for a church, chapel, meeting-house, or other place of divine worship, or for the residence of a minister officiating in such place of worship, or in any place of worship within one mile of such site or for a burial-place, or any number of such sites, provided that each such site does not exceed the extent of one acre.

The 5 & 6 Will. 4, c. 69, provides for a meeting of ratepayers and owners of property in the parish, assembled at a meeting duly convened and held for the purpose, after public notice of the time and place and purpose of holding such meeting shall have been given, as notices of vestry-meetings are published and given. The majority of the owners and ratepayers is to be ascertained in manner provided by 4 & 5 Will. 4, c. 76, s. 40. The Poor Law Act, 1889 (52 & 53 Vict. c. 56, s. 8), provides that no consent, other than that of the Local Government Board, shall be required to the sale or exchange, or letting by the Board of Guardians of any separate parish of any workhouse, tenements, buildings, or land belonging to such parish.

Power for limited owner in case of unborn or unascertained remainderman to convey, &c.

2. The said Act shall be construed as extending to authorise any person seised or entitled only for life or lives of or to any manor or lands of freehold tenure to make such grant, conveyance, or enfranchisement as is mentioned in the said Act in cases where the person next entitled to the same for a beneficial interest in remainder in fee simple or fee tail is unborn or unascertained: Provided that no such grant, conveyance, or enfranchisement made by any such person seised only for a life or lives shall be valid unless the person seised or entitled for a beneficial interest for life or lives, or for an estate in fee simple or fee tail (as the case may be) in remainder immediately expectant on the estate of such unborn or unascertained person of or to such manor or lands (if any, and if legally competent) shall be a party to and shall join in the same; and if there be no such person, or if such person be not legally competent, unless the trustees or trustee (if any) of such manor or lands during the suspense or contingency of the then immediate or expectant estate in fee simple or fee tail in such manor or lands shall in like manner concur.

Short title.

3. This Act may be cited as the Places of Worship Sites Amendment Act, 1882.

Preamble.

THE PUBLIC HEALTH (FRUIT PICKERS LODGINGS) ACT, 1882.

45 & 46 VICT. CHAP. 23.

An Act to extend the Public Health Act, 1875, to the making of Bye-laws for Fruit Pickers. [12th July, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction of Act. 38 & 39 Vict. c. 55.

1. This Act may be cited as the Public Health (Fruit Pickers Lodgings) Act, 1882, and shall be construed as one with the Public Health Act, 1875

Power to make bye-laws for fruit pickers.

2. Section three hundred and fourteen of the Public Health Act, 1875, which enables any local authority to make bye-laws for securing the decent lodging and accommodation of persons engaged in hop-picking within the district of such authority, shall be deemed to extend to and authorise the making of bye-laws for securing the decent lodging and accommodation of persons engaged in the picking of fruit and vegetables.

Section 314 of the Public Health Act, 1875, provides as follows:—Any local authority may, if they they think fit, make bye-laws for securing the decent lodging and accommodation of persons engaged in hop-picking within the district of such authority.

The guardians, as the Rural Sanitary Authority in rural districts, are included in the term local authority.

The bye-laws made under the Abode Act must be made and confirmed in manner provided by the Public Health Act, 1875, sections 182—188.

THE HIGHWAY RATE ASSESSMENT AND EXPENDITURE ACT, 1882.

45 & 46 VICT. CHAP. 27.

An Act to extend certain Provisions of the Poor Rate Assessment and Collection Act, 1869, to the Highway Rate, and for other purposes. [12th July, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Section 1.

1. This Act may be cited as the Highway Rate Assessment and Expenditure Act, 1882. Short title.

2. This Act shall not extend to Scotland or to Ireland. Extent of Act.

3. Where in any parish the vestry have, under section four of the Poor Rate Assessment and Collection Act, 1869, ordered or shall hereafter order that the owners of all rateable hereditaments to which section three of that Act extends shall be rated to the poor rate in respect of such hereditaments instead of the occupiers, such order shall be deemed to extend to and include the highway rate, and whilst such order is in force the respective owners of such hereditaments shall be rated and assessed instead of the occupiers thereof to the highway rates made after the passing of this Act for any highway parish which is co-extensive with such parish or with any part thereof, and to which otherwise such occupiers might by law be rated; subject nevertheless to the abatements or deductions and to the conditions specified in sections four and five of the said Act; and for the purposes of this section the term "overseers" in section four of the said Act shall be construed to mean "surveyor of highways or other person authorised by law to make and levy a highway rate." Power to rate and compound with owner of small tenements. (32 & 33 Vict. c. 41.)

The surveyor of highways, or other person authorised by law to make and levy a highway rate, shall have the same powers, remedies, and privileges for recovering the rates made under this Act upon owners, as the overseers of the poor have under the said Poor Rate Assessment and Collection Act, 1869, for the recovery of a poor rate, and when the overseers are required by law to levy the highway rate, and such rate applies to the whole parish, they may levy the same as part of the poor rate.

Section thirty of the Highway Act, 1835, relating to the composition for rates in certain cases under local Acts is hereby repealed. 5 & 6 W. 4, c. 50.

The 32 & 33 Vict. c. 41, s. 4, provides as follows:—The vestry of any parish may from time to time order that the owners of all rateable hereditaments to which section 3 of this Act extends, situate within such parish, shall be rated to the poor rate in respect of such rateable hereditaments, instead of the occupiers, on all rates made after the date of such order; and thereupon, and so long as such order shall be in force the following enactments shall have effect:—(1) The overseers shall rate the owners instead of the occupiers, and shall allow to them an abatement or deduction of fifteen per centum from the amount of the rate: (2) If the owner of one or more such rateable hereditaments shall give notice to the overseers in writing, that he is willing to be rated for any term not being less than one year in respect of all such rateable hereditaments, of which he is owner, whether the same be occupied or not, the overseers shall rate

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such owner accordingly, and allow to him a further abatement or deduction not exceeding fifteen per centum, from the amount of the rate during the time he is so rated: (3) The vestry may by resolution rescind any such order after a day to be fixed by them, such day being not less than six months after the passing of such resolution, but the order shall continue in force with respect to all rates made before the date on which the resolution takes effect: Provided that this clause shall not be applicable to any rateable hereditament in which a dwelling-house shall not be included.

With regard to the provisions of the Act as to the recovery of poor rates from owners, the following sections may be referred to: Owners omitting to pay before the fifth of June any rate or instalment due before the preceding fifth of January, and duly demanded forfeit their commission under section 4 (section 5). Where owners omit to pay the rates the occupiers may pay the same and deduct the amount from the rent (section 8). Rates due from an owner together with the costs and charges of levying and recovering the same, may be levied on the goods of the owner, and recovered from him in the same way as poor rates may be recovered from an occupier (section 11). Rates unpaid by the owner may be recovered from the occupier by distress, but no such distress can be levied until after fourteen days from the service of a demand upon the occupier, and no greater sum can be raised by distress than is actually due by the occupier for rent, and the sum distrained for may be deducted from the rent (section 12).

Valuation lists conclusive for highway rate.

4. In every highway rate made after the passing of this Act the several hereditaments included therein and assessable to the poor rate shall be rated according to the annual rateable value thereof appearing in the valuation list for the time being in force in the parish which is co-extensive with or includes the highway parish to which the highway rate relates, and where any valuation list has been amended on objection pursuant to section one of the Union Assessment Committee Amendment Act, 1864, the assessment committee shall give notice of such amendment to the surveyor of highways or other person authorised to make and levy the highway rate, who shall thereupon alter the then current highway rate accordingly.

27 & 28 Vict. c. 39.

The effect of this section is that the highway rate must now be made upon the assessments contained in the valuation lists made pursuant to the Union Assessment Committee Acts, 1862 and 1864, 25 & 26 Vict. c. 103, and 27 & 28 Vict. c. 39. Section 1 of the last mentioned statute enables a person rated to object at any time to his valuation as appearing in the said list. The assessment committee must hear the objection, and if they amend the list they must give notice of the amendment to the overseers who thereupon amend the correct poor-rate. The text contains a similar provision requiring notice to be given to the surveyor of highways who must thereupon amend the current highway rate in accordance with the amendment of the valuation list.

Provision for balances of outgoing surveyors.

5. If the rates levied by a surveyor of highways, together with any other sums received by him during his term of office, prove insufficient to meet the whole of the expenditure lawfully incurred by him, and such deficiency has not arisen from any neglect or default on his part, his successor in office may reimburse to him the amount of such deficiency.

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Power to maintain mile stones and to fence.

6. The expenses incurred by a highway authority in maintaining, replacing, or setting up mile stones on any highway, and in fencing by posts and rails or otherwise a highway where such fencing is required for the protection of persons travelling thereon against danger, shall be a lawful charge upon the highway rate.

Waywardens' rate accounts. 41 & 42 Vict. c. 77. 42 & 43 Vict. c. 6.

7. The provisions of section nine of the Highways and Locomotives (Amendment) Act, 1878, as amended by the District Auditors Act, 1879, in relation to the audit of the accounts of highway authorities and their officers shall extend to the accounts of a waywarden of any highway parish within a highway district with respect to the highway rates levied by him.

The 41 & 42 Vict. c. 77, s. 9, requires the accounts of a highway authority to be made up in the form prescribed by the Local Government Board, and balanced to the 25th of March in each year, and audited by the district auditor. The Local Government Act, 1888, section 73, alters the date of the annual balance from the 25th to the 31st March, in each year.

Rates are levied by a waywarden in a highway parish when such parish does not separately maintain its own poor (27 & 28 Vict. c. 101, s. 33).

Recovery and payment of certified balances.

8. Moneys, goods, or chattels certified by an auditor at a highway audit to be due from any person shall be recoverable by the like process and with the like powers as in the case of moneys, goods, or chattels certified at the audit of the poor rate accounts, and where an auditor shall take proceedings for the recovery of any moneys, goods, or chattels certified at a highway audit or shall lay any information for a penalty in consequence of the default of any officer or other person to attend any such audit or to produce the proper accounts or vouchers, or to make or sign the proper declaration before him the costs incurred by the auditor, when not recovered from the defendant, shall, if the Local Government Board consent thereto, be paid to the auditor by the highway authority, and may be recovered from such authority in a summary manner.

The moneys certified at a highway audit shall, where there is a treasurer of the highway authority, be paid to such treasurer, and where there is no such officer to the highway authority for the time being; and the goods or chattels so certified shall be delivered over to the person authorised to receive the same.

The following are the principal statutory provisions by the above section made applicable to a highway audit. The 7 & 8 Vict. c. 101, s. 32, provides that the auditor, shall charge in every account audited by him the amount of any deficiency or loss incurred by the negligence or misconduct of any person accounting, or of any sums for which any such person is accountable, but not brought by him into account against such person, and shall certify on the face of every account audited by him any money,

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books, deeds, papers, goods or chattels, found by him to be due from any person. When the auditor has so certified he must report the same to the Local Government Board. The person from whom any money is certified to be due must, within seven days, pay the amount to the treasurer, and all goods and chattels must, within the same period, be delivered to the persons authorised to receive the same. If the money, goods, or chattels are not paid or handed over, they are to be recovered on the application of the auditor. By section 33 the auditor may require any person holding or accountable for any money, goods, or chattels, to produce to the auditor his accounts and vouchers, and to sign a declaration with respect to his accounts. A breach of this provision is punishable by a penalty of 40*s*. By section 35, if any person is aggrieved by any allowance, disallowance, or surcharge by the auditor, he may require the auditor to state his reasons in writing in the account in which the allowance, &c., is made. Such person may then apply in the Queen's Bench Division for a writ of *certiorari* to quash the allowance, &c. By section 36 an alternative remedy is given by way of appeal to the Local Government Board, who may enquire into and decide upon the lawfulness of the reasons stated by the auditor for such allowance, &c., and may issue such order thereon as they may deem requisite for determining the question. By the 11 & 12 Vict. c. 91, s. 4, upon appeal to the Local Government Board, that Board may decide according to the merits of the case, and if they find that a disallowance or surcharge was lawfully made, but that the subject-matter thereof was incurred under such circumstances as to make it fair and equitable that the disallowance or surcharge should be remitted, they may by order direct that the same shall be remitted upon payment of the costs, if any, which may have been incurred by the auditor or other competent authority in the enforcing of such allowance or surcharge. By section 9, in proceedings to recover sums certified, it is sufficient for the auditor to produce a certificate of his appointment and to state and prove that the audit was held, that the certificate was made in the book of account, and that the sum certified had not been paid to the treasurer within seven days, nor within three days before the information, of which non-payment, a certificate in writing by the treasurer is to be sufficient proof. By 29 & 30 Vict. c. 113, s. 6, the statutory provisions relating to audit of accounts are to be deemed to apply to an extraordinary audit, and by section 8 the auditor may, when authorised by the Local Government Board, inspect the accounts at any time. By 47 & 48 Vict. c. 43, s. 11, the payment of any sum certified by a district auditor to be due in accordance with the above acts, together with the costs of the proceedings for the recovery thereof, may be enforced in like manner as if it were a sum due in respect of the poor rate. With reference to the 7 & 8 Vict. c. 101, s. 33, it was held in a recent case that the mere absence of a churchwarden from the audit of the poor law accounts of his parish, due notice having been given, is not sufficient in itself to support a conviction for wilful disobedience of the rules of the Poor Law Commissioners under the 98th section of 4 & 5 Will. 4, c. 76. A churchwarden who failed to attend the audit of the poor law accounts of his parish, was convicted of a wilful neglect, or disobedience of the rules, orders, and regulations of the Poor Law Commissioners under the 98th section of 4 & 5 Will. 4, c. 76 :—*Held*, that, as he had taken no part in the poor law administration of the parish ; as the churchwardens had not usually attended the audit, and no intimation had been given that their absence had interfered with the transaction of business ; and as the notice of audit under 7 & 8 Vict. c. 101, s. 33, contained an intimation that it was "requisite that one at least of the overseers," should personally attend the audit, as well as the assistant overseer, he might reasonably have supposed that his attendance was not necessary ; and that the conviction must be quashed. (*Holgate* v. *Brett*, 58 L. T. (N.S.) 452 ; 36 W. R. 471 ; 52 J. P. 661.)

Provision as to excluded

9. Where at the time of the passing of this Act part of a parish is excluded from an urban sanitary district, but such

excluded part is for purposes connected with the repairs of highways and the payment of highway rates treated as forming part of the district, the owners and ratepayers of the excluded part may by resolution passed at a meeting to be convened and conducted in manner provided by Schedule III. of the Public Health Act, 1875, decide that such part shall be a highway parish, and if the resolution is approved by an order of the Local Government Board the excluded part shall from a date to be fixed by the said order be for all purposes connected with highways, surveyors of highways, and highway rates, considered and treated as a separate highway parish.

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parts of parishes.
38 & 39 Vict. c. 55.

By the Public Health Act, 1875, section 216, it is provided that where part of a parish is included within an urban district, and the excluded part was, before the constitution of that district liable to contribute to the highway rates for such parish, such excluded part shall (unless in the case of an urban district constituted before the passing of this Act, a resolution deciding that such excluded part should be formed into a separate highway district has been passed in pursuance of the Local Government Act, 1858, Amendment Act, 1861), or unless such excluded part has been included in a highway district under the Highway Acts, for all purposes connected with the repairs of highways and the payment of highway rates, be considered to be and be treated as forming part of such district.

The following are the provisions of Schedule III. of the Public Health Act, 1875, referred to in the text. For the cases decided with reference to them, the reader is referred to "Lumley's Public Health Acts."

SCHEDULE III.

Rules as to Resolutions of Owners and Ratepayers.

1. For the purpose of passing a resolution of *owners* and *ratepayers* under this Act, a meeting shall be summoned on the requisition of any twenty ratepayers *or* owners, or of any twenty ratepayers *and* owners, resident in the district or place with respect to which the resolution is to be passed.

2. The summoning officer of such meeting shall be—

In boroughs, the *mayor;*

In improvement Act districts, the *chairman* of the improvement commissioners;

In local government districts, the *chairman* of the local board;

In places situated in any rural district or districts and having known and defined boundaries, the churchwardens or one of them having jurisdiction co-extensive with the place; or if there are no churchwardens, the overseers or one of them having the like jurisdiction; or if there is none of the officers respectively above enumerated, or if such officer in any case, neglects, is unable, or refuses to perform the duties hereby imposed on him, by any person appointed by the Local Government Board.

Where the boundaries of a place are settled by order of the Local Government Board, the Board shall by such order appoint the summoning officer.

If any summoning officer appointed by the Local Government Board dies, becomes incapable, or refuses or neglects to act, the Local Government Board may appoint another officer in his room.

3. Ratepayers or owners making a requisition for the summoning of such meeting shall, if required, give security in a bond, with two sufficient sureties, for repayment to the summoning officer, in the event of the

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resolution *not being passed*, of the costs incurred in relation to such meeting or any poll taken in pursuance of any demand made thereat; the amount of the security to be given by such sureties, and their sufficiency, and the amount of such costs, to be settled by agreement between the summoning officer and such ratepayers or owners, or, in case of dispute, by a *court of summary jurisdiction*.

4. The summoning officer shall, on such requisition *as aforesaid* fix a time and place for holding such meeting, and shall forthwith give notice thereof—

By advertisement in some one or more of the local newspapers circulated in the district or place;

By causing such notice to be affixed to the principal doors of every church and chapel in the place to which notices are usually affixed.

5. The summoning officer shall be the *chairman* of the meeting unless he is unable or unwilling to preside, in which case the meeting on assembling shall choose one of its number as chairman, who may, with the consent of a majority of the persons present, adjourn the same from *time to time*.

6. The chairman shall propose to the meeting the resolution, and the meeting shall decide for or against its adoption: Provided, that if any owner or ratepayer demands that such question be decided by a poll of owners and ratepayers, such poll shall be taken by voting papers in the Form O. in Schedule IV. to this Act, in the same way and with the same incidents and conditions as to the qualification of electors and scale of voting, as to notice to be given by the returning officer, delivery, filling up and collecting of voting papers, as to the counting of votes, as to penalties for neglect or refusal to comply with the provisions of the Act, and in all respects whatsoever as is provided by the rules for the election of local boards in Schedule II. to this Act; except that in districts or places where there is no register or owners and proxies under this Act, any owner or proxy shall be entitled to have a voting paper delivered to him if *at least fourteen days* before the last day appointed for delivery of the voting papers he sends a claim in writing to the summoning officer containing the particulars required by Schedule II. to this Act, to be contained in claims to be entered on the register of owners and proxies, and except that the provisions with respect to certain specified days of the month shall not apply.

For the purposes of such poll the *summoning officer* shall be the returning officer, and shall have the powers and perform the duties of a returning officer under Schedule II. to this Act, so far as the same are applicable to a poll under this schedule.

If no poll is demanded, or the demand for a poll is withdrawn by the persons making the same, a declaration by the chairman shall, in the absence of proof to the contrary, be sufficient evidence of the decision of such meeting.

7. A copy, under the hand of the summoning officer, of every resolution so passed, shall be forwarded by him to the Local Government Board; and it shall be his duty to publish a copy thereof by advertisement for three successive weeks in some one or more of the local newspapers circulated in the district or place, and by causing a copy thereof to be affixed to the principal doors of every church and chapel in the place to which notices are usually affixed.

8. Where in pursuance of a resolution passed in manner provided by this schedule any place is constituted a *local government district*, all costs incurred by the summoning officer in relation to the meeting, and any poll taken in pursuance of any demand made thereat, shall be a first charge on the general district rates leviable within such district; in the case of a resolution so passed by owners or ratepayers in any urban district, such costs shall be paid out of the fund or rate applicable by the urban authority to the *general purposes* of this Act.

10. In this Act— Section 10.

"Highway audit" means the audit of the accounts of a highway authority or their officers or of any waywarden: Interpretation.

"Highway authority" means as respects a highway district, the highway board, and as respects a highway parish not included in a highway district, the surveyor or surveyors or other officers performing similar duties:

"Highway rate" means a rate made for the repairs of the highways and includes any separate rate made to meet the orders or precepts of a highway authority:

"Parish" means a place for which a separate poor rate can be made:

"Highway parish" means a place separately maintaining its own highways, and, in a highway district, a place for which a waywarden may be elected or a separate highway rate be made.

THE BATHS AND WASH HOUSES ACT, 1882.

45 & 46 VICT. CHAP. 30.

An Act to amend the Baths and Wash Houses Acts.

[24th July, 1882.]

WHEREAS it is desirable to give increased facilities to local authorities for providing baths and wash houses within easy and convenient reach:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the Baths and Wash Houses Act, 1882, and shall be read as one with the Act of the ninth and tenth years of the reign of Her present Majesty, chapter seventy-four, in this Act called "the principal Act." Short title.

2. Section twenty-seven of the principal Act shall be amended by the addition of the words "or in the immediate neighbourhood of such borough or parish" to the words "in any such borough or parish" wherever such last-mentioned words occur in the said section. Amendment of 9 & 10 Vict. c. 74, s. 27.

The 9 & 10 Vict. c. 74, s. 27, provides that the council of a borough and the commissioners of a parish, with the approval of the vestry of such

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parish, may contract for the purchase or lease of any baths and wash-houses already or thereafter to be built and provided in any such borough or parish, and appropriate the same to the purposes of the Act with such additions or alterations as they may deem necessary.

Amendment of 9 & 10 Vict. c. 74, s. 24.

3. The power conferred by section twenty-four of the principal Act to purchase or rent lands for the purposes of that Act shall extend to lands in the immediate neighbourhood of such borough or parish as is therein referred to.

The 9 & 10 Vict. c. 74, s. 24, enables the council of a borough or the commissioners of a parish, with the approval of the vestry, to purchase or rent lands for the purposes of the Act, but the power conferred by that section was limited to lands in the borough or parish.

THE CASUAL POOR ACT, 1882.

45 & 46 VICT. CHAP. 36.

An Act to amend the Pauper Inmates Discharge and Regulation Act, 1871. [10th August, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction. 34 & 35 Vict. c. 108.

1. This Act may be cited as the Casual Poor Act, 1882, and shall be construed as one with the Pauper Inmates Discharge and Regulation Act, 1871.

Commencement of Act.

2. This Act shall commence and come into operation from and immediately after the last day of December, one thousand eight hundred and eighty-two.

Extent of Act.

3. This Act shall not extend to Scotland or Ireland.

Discharge of paupers. [34 & 35 Vict. c. 108, s. 4.]

4. Section five of the Pauper Inmates Discharge and Regulation Act, 1871, is hereby repealed, and in lieu thereof it is hereby enacted as follows:

A casual pauper shall not be entitled to discharge himself from a casual ward before nine o'clock in the morning of the second day following his admission, nor before he has performed the work prescribed for him as in the said Act mentioned; and where a casual pauper has been admitted on more than one occasion during one month into any casual ward of the same union, he shall not be entitled to discharge himself before nine

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o'clock in the morning of the fourth day after his admission, and he may at any time during that interval be removed by any officer of the guardians, or by a police constable, to the workhouse of the union, and be required to remain in such workhouse for the remainder of the period of his detention.

Provided that in computing the number of days during which a casual pauper may be detained under this section Sunday shall not be included.

Provided also, with respect to the metropolis, as follows :—

(1) In determining the number of admissions of a casual pauper every casual ward in the metropolis shall be deemed to be a casual ward of the same union.

(2) The expressions "workhouse of the union" in this section shall include any workhouse and any asylum provided under the Metropolitan Poor Act, 1867, for the reception and setting to work of the casual poor, to which the casual poor of the union can be sent.

The term "casual pauper" means any destitute wayfarer or wanderer applying for or receiving relief. The term "casual ward" means any ward or wards, building or premises, set apart or provided for the reception and relief of destitute wayfarers and wanderers : 34 & 35 Vict. c. 108, s. 3. The term "the metropolis" means the metropolis as defined by the Metropolis Management Act, 1855 : 30 Vict. c. 6, s. 3.

Penalty for obtaining poor relief by false statement. [34 & 35 Vict. c. 108, s. 7. 39 & 40 Vict. c. 61, s. 44.]

5. (1) If any person for the purpose of obtaining relief from the rates raised for the relief of the poor, for himself or for any other person, wilfully gives a false name, or makes or uses a false statement to the guardians of any union or any of their officers, he shall be deemed an idle and disorderly person within the meaning of section three of the Act of the fifth year of King George the Fourth, chapter eighty-three, "for the punishment of idle and disorderly persons, and rogues and vagabonds, in that part of Great Britain called England."

It is provided by 34 & 35 Vict. c. 108, s. 7, that any pauper who wilfully gives a false name, or makes a false statement for the purpose of obtaining relief, shall be deemed an idle and disorderly person within the meaning of the Vagrant Act. By 39 & 40 Vict. c. 61, s. 44, the word "pauper" in the last-mentioned section is to include any person who shall obtain relief by wilfully giving a false name, or making a false statement, and such person may be proceeded against as an idle and disorderly person at any time while he continues to receive such relief. The provision in the text extends the application of these sections.

Preamble.

THE CORN RETURNS ACT, 1882.

45 & 46 VICT. CHAP. 37.

An Act to amend the Law respecting the obtaining of Corn Returns. [10th August, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

Short title.

1. This Act may be cited as the Corn Returns Act, 1882.

It was provided by 6 & 7 Will. 4, c. 71, s. 56, that immediately after the passing of that Act, and also in the month of January in every year, the comptroller of corn returns for the time being, or such other person as should from time to time be in that behalf authorised by the Privy Council, should cause an advertisement to be inserted in the *London Gazette*, stating what had been during the seven years ending on the Thursday next before Christmas Day then next preceding, the average price of an imperial bushel of British wheat, barley, and oats, computed from the weekly average of the corn returns. By section 57, every rentcharge charged upon any lands by any apportionment under the Act is to be deemed at the time of the confirmation of such apportionment (*i.e.*, by the commissioners under section 63), to be of the value of such number of imperial bushels and decimal parts of an imperial bushel of wheat, barley, and oats, as the same would have purchased at the prices so ascertained by the advertisement to be published immediately after the passing of that Act, in case one-third part of such rentcharge had been invested in the purchase of wheat, one-third part thereof in the purchase of barley, and the remaining one-third part of the purchase of oats; and the respective quantities of wheat, barley and oats so ascertained are to be stated in the draft of every such apportionment. The effect of this enactment is "to substitute a corn-rent, payable in money and permanent in quantity, though fluctuating in value, for all tithes:" (*Phil. Eccles. Law*, p. 1504.) By 7 Will. 4 and 1 Vict. c. 69, s. 7, it is provided that the prices at which the conversion from money into corn is to be made at the time of the confirmation of each apportionment, according to the provisions of the former Act, are 7*s.* 0¼*d.* for a bushel of wheat, 3*s.* 11½*d.* for a bushel of barley, and 2*s.* 9*d.* for a bushel of oats. In order more clearly to explain the meaning of the above enactments the practice may be stated as follows. In order to effect the commutation of tithes in a parish, the value in money of the whole of the tithes in the parish is first ascertained by taking the average annual value of the tithes for the seven years ending Christmas, 1835. This total amount in money is then apportioned to the different lands in the parish, so much to each. The money value is then converted into a corn-rent in the manner provided by 6 & 7 Will. 4, c. 71, s. 57. In other words, the money value is assumed to have been laid out in the purchase of wheat, barley, and oats at the average prices fixed by 7 Will. 4 and 1 Vict. c. 59, s. 7; and the amount of the rentcharge in any particular year depends on the price which, according to an average value of corn for the seven years preceding, would in that year purchase the number of bushels of wheat, barley, and oats ascertained by 6 & 7 Will. 4, c. 71, s. 57.

The present Act provides for the making of corn returns, and the ascertaining of the average value of corn for the purposes of tithe rentcharge as above explained.

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2. This Act shall not extend to Scotland or Ireland.

Extent of Act.

3. This Act shall come into operation on the first day of January, one thousand eight hundred and eighty-three, which day is in this Act referred to as the commencement of this Act.

Commencement of Act.

Return from towns of purchases of British corn, and publication of average price. See 5 & 6 Vict. c. 14, s. 19, and schedule. 27 & 28 Vict. c. 87.

4. Weekly returns of the purchases of British corn shall be made, under the direction of the Board of Trade, in manner provided by this Act from such towns, not less than one hundred and fifty and not more than two hundred in number, as may be from time to time fixed by Her Majesty in Council, and the average price of British corn shall be from time to time ascertained from those returns, and published by the Board of Trade in manner provided by this Act.

The order in Council made pursuant to the above section will be found in the *London Gazette* of the 16th February, 1883. It contains the names of 187 towns.

Weekly returns of purchases of British corn.

5. Every such buyer of corn as is hereinafter mentioned in any town from which corn returns are for the time being required by this Act to be made, shall, weekly, on the last market day in the week in that town, or on such other day as may be from time to time fixed by Her Majesty in Council, make to the inspector of corn returns for that town, at the place fixed, as in this Act mentioned, a return in writing signed by him, specifying, with respect to the seven days ending on and including the day on which the return is made, the amount of every parcel of each sort of British corn bought by him in the town, whether from the producer or otherwise, and the price thereof, and the weight or measure by which the same was bought, the name of the seller, and if the same was sold or bought on account of any other person the name of that person, and if an inspector of corn returns delivers to a buyer of corn required under this Act to make returns a notice in writing requiring him to declare where and by whom and in what manner any British corn was delivered to him, such buyer shall make a return of the particulars so required in a separate statement in writing signed by him.

Buyers of corn are defined by the next section. As to the inspector, see section 13, *post*.

Buyers of corn bound to make returns of purchases of corn. See 5 & 6

6. The following persons shall make the returns required by this Act, and are in this Act referred to as buyers of corn in a town; that is to say,

(1) Every person who deals in British corn in such town; also

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Vict. c. 14, ss. 17, 18, 23, 25.

(2) Every person who in any such town engages in or carries on the trade of a cornfactor, miller, maltster, brewer, or distiller; also

(3) Every person who is the owner or part owner of any carriages carrying goods or passengers for hire to and from or within any such town; also

(4) Every person who as a merchant, clerk, agent, or otherwise, purchases in any such town any British corn for sale, or for the sale of meal, flour, malt, or bread made or to be made thereof.

Weekly summary of quantities and prices by inspectors to the Board of Trade.

7. Every inspector of corn returns shall record in the prescribed manner the returns made to him under this Act in any town, and in every week shall ascertain from those returns the total quantity with the total and average price of each sort of British corn returned to him in that town during that week, and shall on the next Monday, or such other day as may be prescribed, send to the Board of Trade in the prescribed manner and form a summary of such total quantities and total and average prices for the said week.

A copy of the weekly summary from any town shall, together with the prescribed details (exclusive of the names of persons), be made public there in the prescribed manner.

Computing of corn according to the bushel. 41 & 42 Vict. c. 49.

8. In the weekly summary of quantities and prices each sort of British corn shall be computed with reference to the imperial bushel. An inspector of corn returns shall convert into such imperial bushel all returns made to him in any other measure or by weight or by a weighed measure, and in the case of weight or weighed measure shall convert the same at the rate of sixty imperial pounds for every bushel of wheat, fifty imperial pounds for every bushel of barley, and thirty-nine imperial pounds for every bushel of oats.

Computation and publication of averages by Board of Trade.

9. The Board of Trade shall cause the average prices of each sort of British corn to be computed from the summaries sent by the inspectors of corn returns in pursuance of this Act, as follows:

(1) In each week the average price during the next preceding week of each sort of British corn for the whole of the towns and for each town from which a summary is obtained, shall be computed, and shall be published in the *London Gazette:*

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(2) After each of the quarter days, the twenty-fifth day of March, the twenty-fourth day of June, the twenty-ninth day of September, and the twenty-fifth day of December, the average price of each sort of British corn during the quarter ending on that quarter day shall be forthwith computed and published in the *London Gazette:*

(3) After the twenty-fifth day of December in every year the average price of each sort of British corn shall be computed for the year, and the seven years ending on that day, and shall be published in the *London Gazette* in the month of January next following:

(4) The average price of any sort of British corn for any week shall be ascertained by adding together the total quantities of that sort of British corn appearing from the summaries of the inspectors of corn returns to have been bought during such week, and the total prices for those quantities as appearing from the said summaries, and by dividing the total prices by the total quantities as so ascertained. The quarterly or yearly average prices shall be ascertained by adding together the weekly averages of the weeks included in such quarter or year, and dividing the total by the number of weeks in such quarter or year respectively:

(5) The septennial average price shall be ascertained by adding together the average annual prices for the seven years, and dividing the total by seven:

(6) The annual and septennial average shall state the average for the imperial bushel.

Application of septennial average to Tithe Commutation Acts.

10. The statement of the septennial average price referring to the imperial bushel published under this Act in the *London Gazette* shall be substituted for the advertisement referred to in such portion of the Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter seventy-one, intituled "An Act for the Commutation of Tithes in England and Wales," as is repealed by this Act, and shall be deemed for the purposes of the Acts relating to the commutation of tithes to be an advertisement of the average price published under the said Act.

Penalty for failure to make return.

11. Every person who fails to make to an inspector of corn returns any return which he is required by this Act to make, or

Section 11.

5 & 6 Vict. c. 14, s. 39.

to include in any such return any purchase of British corn or any material particular, shall be liable on summary conviction to a fine not exceeding twenty pounds.

Penalty for false return.

12. Any person who in any return made in pursuance of this Act to an inspector of corn returns makes any false or fraudulent statement, also any person who includes or procures to be included in any such return any British corn not *bonâ fide* bought as specified in the return, or any corn which is not British corn, shall be guilty of a misdemeanour.

Where the Board of Trade have reason to believe that a return or any particular in a return is false in any particular they may cause that return, or so much as relates to that particular, to be omitted in the computation of the average prices in pursuance of this Act.

Inspectors of corn returns.

13. Such officers of Inland Revenue as the Commissioners of Inland Revenue from time to time appoint shall be inspectors of corn returns.

In every town from which corn returns are required for the time being under this Act to be made, a proper place shall be fixed for the delivery of those returns, and an inspector of corn returns shall attend there to receive the returns on the days on which the returns are required to be made; and the Commissioners of Inland Revenue shall from time to time provide the said place and publicly notify it in such manner as they think sufficient for giving notice thereof to all persons interested.

Regulations as to execution of Act and supply of books, &c.

14. The Board of Trade may from time to time make, and when made revoke, vary, and add to, regulations respecting the execution of this Act and the duties of inspectors of corn returns, and such regulations shall be duly observed by all persons to whom they relate, and such regulations may refer to all the inspectors or all the towns from which returns are required, or to some one or more of them.

The Board of Trade shall supply inspectors of corn returns with proper books, forms, and documents for the performance of their duties, which shall be the property of the Board of Trade.

The regulations may provide for the inspection, by order of the Board of Trade, and under proper control, of the books and papers kept by inspectors of corn returns for the purposes of this Act.

Section 15.

15. The expenses incurred by the Commissioners of Inland Revenue or the Board of Trade in the execution of this Act shall, subject to the approval of the Lords Commissioners of Her Majesty's Treasury, be paid out of moneys provided by Parliament. Expenses.

16. This Act shall apply to the City of London and the area within five miles from the Royal Exchange in that city in like manner as it applies to a town, subject to the following modifications; that is to say, Application of Act to London.

(1) The return shall be made on Wednesday in every week or on such other day as may be prescribed:

(2) The buyers of corn required to make the return shall be every person who within the said city and area deals in British corn, or carries on business as a cornfactor, or who buys any British corn within the Corn Exchange in Mark Lane in the said city, or within any other building or place which is or may hereafter be used within the said city or area for the like purposes as the said Corn Exchange, and not any other person:

(3) The inspector of corn returns, when any vacancy takes place in the office, shall be appointed by the Board of Trade, at such salary or remuneration, payable out of moneys provided by Parliament, as they may with the approval of the Commissioners of Her Majesty's Treasury from time to time determine, and the place for the delivery of the returns shall be provided and notified either by the inspector or the Board of Trade, as determined by the Board of Trade.

17. Any fine under this Act may be recovered in manner provided by the Summary Jurisdiction (England) Acts, and shall be paid into Her Majesty's Exchequer in such manner as the Lords Commissioners of Her Majesty's Treasury may direct. Recovery of fines. 42 & 43 Vict. c. 49, &c.

18. In this Act, unless the context otherwise requires,— Definitions.

The expression "British corn" means wheat, barley, and oats, the produce of the United Kingdom, the Channel Islands, or the Isle of Man, and any such wheat, barley, or oats is in this Act referred to as a sort of British corn:

The expression "prescribed" means prescribed by regulations of the Board of Trade under this Act for the time being in force:

Section 18.

The expression "person" includes a body of persons, corporate or unincorporate:

The expression "bought" means the agreement to buy, whether made by sale-note, or otherwise, and irrespective of actual delivery in pursuance thereof.

Repeal of Acts.

19. The Acts set forth in the schedule to this Act are hereby repealed as from the commencement of this Act to the extent in the third column of that schedule mentioned; provided that—

(1) This repeal shall not affect anything duly done or suffered in pursuance of the Acts hereby repealed;

(2) This repeal shall not affect any returns made or average of prices published before the commencement of this Act, and such returns and average prices shall be dealt with in like manner as if they had been made and published in pursuance of this Act;

(3) This repeal shall not affect the persons who at the commencement of this Act hold the offices of inspectors of corn returns mentioned in sections twelve, fourteen, and twenty-two of the first Act mentioned in the said schedule, and those persons, while they continue to hold office, shall be inspectors of corn returns under this Act; and the above-mentioned sections, and also sections thirteen, thirty-six, thirty-seven, and thirty-eight of the said Act, shall continue in force so far as regards the persons aforesaid respectively.

SCHEDULE.

REPEAL OF ACTS.

Session and Chapter.	Title.	Extent of Repeal.
5 & 6 Vict. c. 14 -	An Act to amend the laws for the importation of corn.	The whole Act.
27 & 28 Vict. c. 87 -	An Act to amend the law relating to publication of accounts of corn imported, and to returns of purchases and sales of corn.	The whole Act.
6 & 7 Will. 4, c. 71 -	An Act for the Commutation of Tithes in England and Wales.	Section 56.

Section 14.

BILLS OF SALE ACT, (1878) AMENDMENT ACT, 1882.

45 & 46 VICT. CHAP. 43.

An Act to amend the Bills of Sale Act, 1878.

[18th August, 1882.]

* * * * *

14. A bill of sale to which this Act applies shall be no protection in respect of personal chattels included in such bill of sale which but for such bill of sale would have been liable to distress under a warrant for the recovery of taxes and poor and other parochial rates.

Bill of sale not to protect chattels against poor and parochial rates.

* * * * *

This Act does not apply to bills of sale duly registered before the 1st November, 1882, so long as the registration thereof is not avoided by non-renewal or otherwise.

The result of the above enactment is that a bill of sale registered since the 1st November, 1882, will not prevent the execution of a warrant of distress for poor or parochial rates comprised in such bill of sale. The expression "parochial rates" has been held to include a county rate: *Reg.* v. *Aylesbury, Overseers of*, 9 Q. B. 261; a borough watch rate: *Reg.* v. *Everton*, 2 E. & E. 771; a borough improvement rate and lamp rate: *Reg.* v. *St. Thomas*, L. R. 5 Q. B. 571; the ground of all these decisions appears to be that these rates are levied on the entire parish regarded as a parish. When a watch rate was levied on wards, and not upon the parishes in a borough it was held not to be a parochial rate, and the same was held of a bridge rate which was levied upon the ratepayers as inhabitants of a county, and not as inhabitants of parishes: *R.* v. *Christchurch*, 8 B. & C. 660. And it has been doubted whether a watch rate levied upon that part of a parish which was within a borough, and not upon the entire parish was a parochial rate, per CROMPTON, J., in *Reg.* v. *Everton, supra.*

SCHEDULE.

FORM OF BILL OF SALE.

This Indenture made the day of , between *A.B.*, of of the one part, and *C.D.* of of the other part, witnesseth that in consideration of the sum of £ now paid to *A.B.* by *C.D.*, the receipt of which the said *A.B.* hereby acknowledges [*or whatever else the consideration may be*], he the said *A.B.* doth hereby assign unto *C.D.*, his executors, administrators, and assigns, all and singular the several chattels and things specifically described in the schedule hereto annexed by way of security for the payment of the sum of £ , and interest thereon at the rate of per cent. per annum [*or whatever else may be the rate*]. And the said *A.B.* doth further agree and declare that he will duly pay to the said *C.D.* the principal sum aforesaid, together with the interest then

Schedule.

due, by equal payments of £ on the day of [*or whatever else may be the stipulated times or time of payment*]. And the said *A.B.* doth also agree with the said *C.D.* that he will [*here insert terms as to insurance, payment of rent, or otherwise which the parties may agree to for the maintenance or defeasance of the security*].

Provided always, that the chattels hereby assigned shall not be liable to seizure or to be taken possession of by the said *C.D.* for any cause other than those specified in section seven of the Bills of Sale Act (1878) Amendment Act, 1882.

In witness, &c.

Signed and sealed by the said *A.B.* in the presence of me *E.F.* [*add witness' name, address, and description*].

THE MUNICIPAL CORPORATIONS ACT, 1882.

45 & 46 VICT. CHAP. 50.

An Act for consolidating, with amendments, enactments relating to Municipal Corporations in England and Wales.

[18th August, 1882.]

* * * * *

The sections of this Act which are included in the present work are those which relate to the duties of overseers in preparing the burgess lists, and those which relate to municipal elections and corrupt practices at such elections. The sections which relate to elections are now applicable to elections of guardians, and therefore properly fall within the description of Poor Law Statutes.

* * * * *

Claim by occupier to be rated.

32.—(1) If an occupier of any qualifying property, whether the landlord is or is not liable to be rated to the poor rate in respect thereof, claims to be rated to the poor rate in respect thereof, and pays or tenders to the overseers of the parish where the property is situate the full amount of the poor rate last made in respect of the property, the overseers shall put the occupier's name on the rate book in respect of that rate.

(2) If they fail to do so, he shall nevertheless for the purposes of this Act be deemed rated to that rate.

It is difficult to state the object and effect of this section. It implies that the qualifying property has been rated in the last poor rate, but in the name of a person other than the occupier. If that person had been the owner, the occupier would have been deemed to be rated under 32 & 33 Vict. c. 41, s. 19.

* * * * *

Section 44.

PART III.

PREPARATIONS FOR AND PROCEDURE AT ELECTIONS.

Parish Burgess Lists; Burgess Rolls; Ward Rolls.

Preparation and revision of parish burgess lists.

44.—(1) Where the whole or part of the area of a borough is co-extensive with or included in the area of a parliamentary borough, the lists of burgesses are to be made out and revised, and claims and objections relating thereto are to be made, in accordance with the provisions of the Parliamentary and Municipal Registration Act, 1878. 41 & 42 Vict. c. 26.

(2) Where no part of the area of a borough is co-extensive with or included in the area of a parliamentary borough, the lists of burgesses shall be made out and revised, and claims and objections relating thereto may be made, in accordance, as nearly as may be, with the provisions of Part I. of the Third Schedule.

(3) In either case the lists shall be styled the parish burgess lists.

The County Electors Act, 1888, section 4, provides that in all boroughs the lists of burgesses shall hereafter be revised by the revising barrister in manner provided by 41 & 42 Vict. c. 26; and that revising assessors shall no longer be appointed. Sub-section (2), of the above section is therefore practically repealed.

The burgess roll and ward rolls.

45.—(1) When the parish burgess lists have been revised and signed, the revising authority shall deliver them to the town clerk, and a printed copy thereof, examined by him and signed by him, shall be the burgess roll of the borough.

The revising authority will now in every case be the revising barrister. See the note to the preceding section.

The town clerk of a borough must print the burgess roll. See section 48, *post*. For the application of this, and the succeeding sections to the county register, see the County Electors Act, 1888, section 7 and the notes to that section in Mr. Lushington's work on that Act, and in Mr. Macmorran's work on the Local Government Acts, p. 237.

(2) The burgess roll shall be completed on or before the twentieth of October in each year, and shall come into operation on the first of November in that year, and shall continue in operation for the twelve months beginning on that day.

(3) The names in the burgess roll shall be numbered by wards or by polling districts, unless in any case the council direct that the same be numbered consecutively without reference to wards or polling districts.

Section 45.

(4) Where the borough has no wards, the burgess roll shall be made in one general roll for the whole borough.

(5) Where the borough has wards, the burgess roll shall be made in separate rolls, called ward rolls, one for each ward, containing the names of the persons entitled to vote in that ward, and the ward rolls collectively shall constitute the burgess roll.

(6) A burgess shall not be enrolled in more than one ward roll.

This provision does not apply to county electors, for by section 7 of the County Electors Act, 1888, it is expressly provided that nothing shall prevent a county elector from being registered in more than one division register.

(7) Where a duplicate of a burgess list is made under section thirty-one of the Parliamentary and Municipal Registration Act, 1878, it shall have the same effect as the original, and may be delivered instead thereof.

It is provided by 41 & 42 Vict. c. 26, s. 31, that the revising barrister shall, as part of the business of the revision at the request of the town clerk of any municipal borough, sign and deliver to him a duplicate of the whole, or part of any revised list made out in divisions, and relating to that municipal borough. Every such duplicate shall be prepared by the town clerk at whose request it is so signed, and shall be kept by him for use for municipal purposes. As the lists are now made out in divisions in all municipal boroughs, this provision is now of universal application.

(8) Every person enrolled in the burgess roll shall be deemed to be enrolled as a burgess, and every person not enrolled in the burgess roll shall be deemed to be not enrolled as a burgess.

(9) No stamp duty shall be payable in respect of the enrolment of a burgess.

Arrangement of lists and rolls.

46.—(1) If and as far as the council so direct, the parish burgess lists, and the burgess roll, and the ward rolls (if any), and the lists of claimants and respondents, or any of those documents, shall be arranged in the same order in which the qualifying properties appear in the rate book for the parish in which they are situate, or otherwise in such order as will cause those lists and rolls to record the qualifying properties in successive order in the street or other place in which they are situate.

(2) Subject to any such direction, and to the provisions of this Act as to polling districts, the arrangement of the lists and rolls shall be alphabetical.

It is provided by the County Electors Act, section 4, amended by the Local Government Act, 1888, section 76, that where a municipal borough

or an urban district is co-extensive with any electoral division or divisions of a parliamentary county, the list of voters may be directed by the county council to be made out according to the order in which the qualifying premises appear in the rate book, and section 21 of 41 & 42 Vict. c. 26, shall apply to such borough or urban district. It follows from this provision that even if the borough council make no order as provided in the text, the county council may nevertheless make such an order.

Section 46. NOTE.

Correction of burgess roll.

47.—(1) Where the parish burgess lists are revised under the Parliamentary and Municipal Registration Act, 1878, the burgess roll is subject to alteration or correction in manner provided by section thirty-five of that Act.

(2) Where the parish burgess lists are revised under this Act, any person whose claim has been rejected or name expunged at the revision of the lists may apply, within two months after the last sitting of the revision court, to the High Court in the Queen's Bench Division for a mandamus to the mayor to insert his name in the burgess roll; and thereupon the court shall inquire into the title of the applicant to be enrolled.

(3) If the court grants a mandamus, the mayor shall insert the name in the burgess roll, and shall add thereto the words "by order of Her Majesty's High Court of Justice," and shall subscribe his name to those words.

As already stated in the note to section 44, the parish burgess lists are now in every case revised under 41 & 42 Vict. c. 26, so that sub-sections 2 and 3 of the above section are practically repealed.

The 41 & 42 Vict. c. 26, s. 35, provides that the provisions of the Parliamentary Registration Acts as to appeal from the decision of the revising barrister shall apply to a decision on a revision of the burgess lists, and the provisions of the said Acts as to the alteration and correction of the register, in pursuance of any judgment or order of the Court of Appeal, shall apply to the alteration or correction of the burgess roll made up from the burgess lists, as if it were a register of parliamentary voters, except that the notice of the judgment or order shall be given to the town clerk having the custody of the burgess roll, and the alteration or correction shall be made and signed by him.

Printing and sale of burgess roll and other documents.

48.—(1) The town clerk shall cause the parish burgess lists, the lists of claimants and respondents, and the burgess roll, to be printed, and shall deliver printed copies to any person on payment of a reasonable price for each copy.

(2) Subject to section thirty of the Parliamentary and Municipal Registration Act, 1878, the proceeds of sale shall go to the borough fund.

The 41 & 42 Vict. c. 26, s. 30, provides that one-half of the monies received in respect of the burgess lists shall be applied in the manner directed by the Parliamentary Registration Acts and the other half shall be paid to the borough fund.

Separate list of persons qualified to

49.—(1) The overseers of each parish shall at the same time that they make the parish burgess list make a list of the

Section 49. persons entitled in respect of the occupation of property in that parish to be elected councillors, as being resident within fifteen miles although beyond seven miles from the borough.

be councillors but not to be burgesses.

(2) The provisions of this Act as to the parish burgess lists, and claims and objections relating thereto, and the revision of those lists shall, as nearly as circumstances admit, apply to the lists made under this section.

(3) The town clerk shall arrange the names entered in these lists, when revised, in alphabetical order as a separate list (in this Act called the separate non-resident list), with an appropriate heading, at the end of the burgess roll.

* * * * *

The separate non-resident list consists of the names of persons who are entitled to be enrolled as burgesses in all respects save that of residence within seven miles of the borough, but who by reason of residence within the fifteen mile limit are qualified to be elected councillors under section 11 (2), of this Act.

A similar list has to be made out by overseers in counties with reference to the qualifications of county councillors. See the County Electors Act, 1888, section 12, and the Local Government Act, 1888, sections 75 and 76; but this does not apply in the county of London, for by section 77 of the Local Government Act, 1888, the persons whose names would otherwise be included in the non-resident list are to be registered as county electors.

Supplemental and Exceptional Provisions.

Right of women to vote.

63. For all purposes connected with and having reference to the right to vote at municipal elections words in this Act importing the masculine gender include women.

This section enables women to be registered as burgesses and it is extended by the County Electors Act, 1888, section 2, so as to enable women to be registered as county electors. A married woman, however, cannot be registered. See *Reg.* v. *Harrold*, L. R. 7 Q. B. 361; 41 L. J. Q. B. 173; 26 L. T. (N.S.) 616: 20 W. R. 328; 36 J. P. 438.

In a recent case it was held that under the Local Government Act, 1888, a woman was not capable of being elected a county councillor; that the votes given for her at the election were thrown away, and therefore that the petitioner was duly elected and ought to have been returned: *Beresford Hope* v. *Lady Sandhurst*, 23 Q. B. D. 79.

Polling districts.

64. The council may divide the borough or any ward into polling districts, and thereupon the overseers shall, as far as practicable, make out the parish burgess lists so as to divide the names in conformity with the polling districts.

* * * * *

In a parish which is not within a municipal borough the lists of voters are to be framed in parts for polling districts and electoral divisions, and for urban districts, and for wards in such a manner that the parts may be conveniently compiled or put together to serve as lists for polling districts and elections in urban districts, and as electoral division or ward lists. See the County Electors Act, 1888, section 4 (2), amended by the Local Government Act, 1888, section 76.

Section 71.

Burgess roll to be in operation until revision of new burgess roll.

71.—(1) If a parish burgess list is not made or revised in due time, the corresponding part of the burgess roll in operation before the time appointed for the revision shall be the parish burgess list until a burgess list for the parish has been revised and become part of the burgess roll.

(2) If a burgess roll is not made in due time, the burgess roll in force before the time appointed for the revision shall continue in force until the new burgess roll is made.

* * * * *

The above section is applied to elections of county councillors by section 7 of the County Electors Act, 1888. Note to section 75 (1). As already stated in the note section 44, *ante*, the mayor and revising assessors will no longer revise any parish burgess list.

Offences in relation to lists and elections.

75.—(1) If a mayor or revising assessor neglects or refuses to revise a parish burgess list, or a mayor or alderman neglects or refuses to conduct or declare an election, as required by this Act, he shall for every such offence be liable to a fine not exceeding one hundred pounds, recoverable by action.

(2) If—

(*a*) An overseer neglects or refuses to make, sign, or deliver a parish burgess list, as required by this Act; or

(*b*) A town clerk neglects or refuses to receive, print, and publish, a parish burgess list or list of claimants or respondents, as required by this Act; or

(*c*) An overseer or town clerk refuses to allow any such list to be inspected by a person having a right thereto;

he shall for every such neglect or refusal be liable to a fine not exceeding fifty pounds, recoverable by action.

It has been held that a mere omission though not wilful is an offence against this section: *King* v. *Burrell*, 12 A. & E. 460; *King* v. *Share*, 3 Q. B. 31; *Hunt* v. *Hobbs*, 5 H. & N. 123; 29 L. J. Ex. 122; 6 Jur. (N.S.) 78; 2 L. T. (N.S.) 379; 8 W. R. 238; 24 J. P. 118. Notice of action under this section is not necessary: *King* v. *Burrell*, *supra*.

The delivery of a printed copy corrected by an overseer in his own handwriting is not a sufficient signature. A churchwarden must sign as overseer: *King* v. *Burrell*, *supra*.

(3) An action under this section shall not lie after three months from the neglect or refusal. A moiety of any fine recovered therein shall, after payment of the costs of action, be paid to the plaintiff.

Section 77.

PART IV.

CORRUPT PRACTICES AND ELECTION PETITIONS.

Corrupt Practices.

Definitions.

77. In this Part—

"Bribery," "treating," "undue influence," and "personation," include respectively anything done before, at, after, or with respect to a municipal election, which if done before, at, after, or with respect to a parliamentary election would make the person doing the same liable to any penalty, punishment, or disqualification for bribery, treating, undue influence, or personation, as the case may be, under any Act for the time being in force with respect to parliamentary elections:

"Candidate" means a person elected, or having been nominated, or having declared himself a candidate for election, to a corporate office:

"Voter" means a burgess or a person who votes or claims to vote at a municipal election:

"Election court" means a court constituted under this Part for the trial of an election petition:

"Municipal election petition" or "election petition" means a petition under this Part complaining of an undue municipal election:

"Parliamentary election petition" means a petition under the Parliamentary Elections Act, 1868:

31 & 32 Vict. c. 125.

"Prescribed" means prescribed by general rules made under this Part:

"Borough" and "election" when used with reference to a petition mean the borough and election to which the petition relates.

* * * * *

The portions of the above section repealed by 47 & 48 Vict. c. 70, are omitted. It will be remembered that this part of the Act is applied to elections of guardians, local boards, improvement commissioners, and school boards by 47 & 48 Vict. c. 70, *post*.

Avoidance of election for general corruption.

81. A municipal election shall be wholly avoided by such general corruption, bribery, treating, or intimidation at the election as would by the common law of Parliament avoid a parliamentary election.

* * * * *

Section 85.

85. The votes of persons in respect of whom any corrupt practice is proved to have been committed at a municipal election shall be struck off on a scrutiny. Striking off votes.

The 47 & 48 Vict. c. 70, s. 22, *post*, provided that every person guilty of a corrupt or illegal practice, or of illegal payment, employment or hiring, at a municipal election is prohibited from voting at such election, and if any such person votes, his vote shall be void, and shall be struck off on a scrutiny. This provision is of wider application than the above section and practically supersedes it.

Personation.

86. The enactments for the time being in force for the detection of personation and for the apprehension of persons charged with personation at a parliamentary election shall apply in the case of a municipal election.

These enactments are contained in 6 Vict. c. 18, ss. 85—89, which are incorporated with the Ballot Act, 1872, 35 & 36 Vict. c. 33, s. 24. They provide for the appointment of agents to detect personation at the time of polling, for the giving of persons charged with personation into custody, and for the proceedings before justices on the charge.

Election Petitions.

Power to question municipal election by petition.

87.—(1) A municipal election may be questioned by an election petition on the ground—

(*a*) That the election was as to the borough or ward wholly avoided by general bribery, treating, undue influence, or personation; or

(*b*) That the election was avoided by corrupt practices or offences against this Part committed at the election; or

(*c*) That the person whose election is questioned was at the time of the election disqualified; or

(*d*) That he was not duly elected by a majority of lawful votes.

(2) A municipal election shall not be questioned on any of those grounds except by an election petition.

For the definition of the offences above mentioned, see 47 & 48 Vict. c. 70, sched. 3, *post*. That Act also provides by section 25 that an election may be questioned for illegal practices.

The disqualification mentioned in sub-section 1 (*c*), means a disqualification existing at the time of election. If a person becomes disqualified after election, the proper remedy is by *quo warranto*: *Howes* v. *Turner*, 1 C. P. D. 670; 45 L. J. C. P. 550; 35 L. T. (N.S.) 58.

A petition presented under sub-section 1 (*d*), involves a scrutiny. Where a returning officer improperly allowed an objection to a nomination, it was held that a petition would lie under this head, for if the nomination had not been rejected, the votes might have been differently given: *Budge* v. *Andrews*, 3 C. P. D. 510; 47 L. J. Q. B. 586; 39 L. T. (N.S.) 166. If an elector having notice or knowledge of the disqualification of a candidate wilfully votes for him, his vote is thrown away, but knowledge of the fact which creates a legal disqualification does not involve knowledge that

Section 87. NOTE.

the candidate is legally disqualified. In the recent case of *Beresford Hope* v. *Lady Sandhurst*, 23 Q. B. D. 79, it was held that votes given for a woman at a county council election were thrown away.

It follows from the provision in sub-section (2) that *quo warranto* will not lie on any of the grounds mentioned in this section.

Presentation of petition.

88.—(1) An election petition may be presented either by four or more persons who voted or had a right to vote at the election or by a person alleging himself to have been a candidate at the election.

(2) Any person whose election is questioned by the petition, and any returning officer of whose conduct a petition complains, may be made a respondent to the petition.

A petition may be presented against some only of the persons returned, though the ground of the petition is one affecting the validity of the election as a whole; and the court can in such a case declare the person so petitioned against not to have been duly elected: *Line* v. *Warren*, 14 Q. B. D. 548; 54 L. J. Q. B. 291; 49 J. P. 516.

An unsuccessful candidate at an election cannot be made a respondent to a petition, although he coalesced for the purposes of the election with two successful candidates, so as to be responsible equally with them for any acts done by any of the three in furtherance of the common purpose: *Lovering* v. *Dawson*, L. R. 10 C. P. 726; 44 L. J. C. P. 321; 32 L. T. (N.S.) 819.

At a municipal election A. and B. were candidates for the office of councillor. A. obtained a majority of votes over B., and was declared elected, but refused to serve. B. thereupon claimed to have been elected, and having made the necessary declaration, acted on several occasions as councillor. A petition was presented against both A. and B., and both of them gave notice of their intention not to oppose the petition. No notice of A.'s disqualification was given to the electors. On an application by B. to the court that his name might be struck out of the petition, the court refused the application, holding that he was properly made a respondent: *Yates* v. *Leach*, L. R. 9 C. P. 605; 43 L. J. C. P. 377; 30 L. T. (N.S.) 790.

(3) The petition shall be in the prescribed form and shall be signed by the petitioner, and shall be presented in the prescribed manner to the High Court in the Queen's Bench Division, and the prescribed officer shall send a copy thereof to the town clerk, who shall forthwith publish it in the borough.

The word "prescribed," here means prescribed by the general rules made under section 100, *post*. See section 77, *ante*, p. 136. In applying this provision to an election of guardians the clerk of the guardians must be substituted for the town clerk and the union for the borough.

(4) It shall be presented within twenty-one days after the day on which the election was held, except that if it complains of the election on the ground of corrupt practices, and specifically alleges that a payment of money or other reward has been made or promised since the election by a person elected at the election or on his account or with his privity, in pursuance or furtherance of such corrupt practices, it may be presented at any time within twenty-eight days after the date of the alleged payment

or promise, whether or not any other petition against that person has been previously presented or tried. Section 88.

For the corresponding provision relating to illegal practices, see 47 & 48 Vict. c. 70, s. 25, *post*. That section also provides that any election petition presented within the time limited by the Municipal Corporations Act, 1882, may, for the purpose of complaining of the election upon an allegation of an illegal practice, be amended, with the leave of the High Court, within the time within which a petition complaining of the election on the ground of that illegal practice can, under that section, be presented. The court cannot after the period of twenty-one days here mentioned allow an amendment, which would practically amount to a new petition as by adding a charge of treating: *Clark* v. *Lowley*, 52 L. J. Q. B. 321; 48 L. T. (N.S.) 762; 31 W. R. 551; 47 J. P. 551.

Security for costs.

89.—(1) At the time of presenting an election petition or within three days afterwards, the petitioner shall give security for all costs, charges, and expenses which may become payable by him to any witness summoned on his behalf, or to any respondent.

(2) The security shall be to such amount, not exceeding five hundred pounds, as the High Court, or a Judge thereof, on summons, directs, and shall be given in the prescribed manner, either by a deposit of money, or by recognisance entered into by not more than four sureties, or partly in one way and partly in the other.

See the general rules 14—38, *post*, with reference to security for costs.

(3) Within five days after the presentation of the petition the petitioner shall in the prescribed manner serve on the respondent a notice of the presentation of the petition, and of the nature of the proposed security, and a copy of the petition.

By rule 36, the petitioner or his agent must file an affidavit of the time and manner of the service immediately after such service. The observance of these provisions as to service of the petition is a condition precedent to the trial of the petition: *William* v. *Tenby, Mayor of*, 5 C. P. D. 135; 49 L. J. C. P. 325; 42 L. T. (N.S.) 187; 28 W. R. 616; 44 J. P. 348.

(4) Within five days after service of the notice the respondent may object in writing to any recognisance on the ground that any surety is insufficient or is dead, or cannot be found or ascertained for want of a sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged the same.

(5) An objection to a recognisance shall be decided in the prescribed manner.

See the general rules 27—34, *post*.

(6) If the objection is allowed, the petitioner may, within a further prescribed time not exceeding five days, remove it by

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a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognisance of the matter, make the security sufficient.

(7) If no security is given, as prescribed, or any objection is allowed and is not removed, as aforesaid, no further proceedings shall be had on the petition.

Petition at issue.

90. On the expiration of the time limited for making objections, or, after objection made on the objection being disallowed or removed, whichever last happens, the petition shall be at issue.

The objections here referred to are the objections to recognisances under the preceding section.

Municipal election list.

91.—(1) The prescribed officer shall as soon as may be make a list, in this Act referred to as the municipal election list, of all election petitions at issue, placing them in the order in which they were presented, and shall keep at his office a copy of this list, open to inspection in the prescribed manner.

The prescribed officer is the master for the time being nominated as prescribed officer. See rule 1, *post*. As to the making out of the list and the inspection of the list, see rule 39, *post*.

(2) The petitions shall, as far as conveniently may be, be tried in the order in which they stand in the list.

(3) Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but for the purposes of this Part the petition shall be deemed to be a separate petition against each respondent.

See *Line* v. *Warren*, *ante*, p. 138.

(4) Where more petitions than one are presented relating to the same election, or to elections held at the same time for different wards of the same borough, they shall be bracketed together in the list as one petition, but shall, unless the High Court otherwise directs, stand in the list in the place where the last of them would have stood if it had been the only petition relating to that election.

In applying this section to an election of guardians the word "borough" must be read as union.

Constitution of election court.

92.—(1) An election petition shall be tried by an election court consisting of a barrister qualified and appointed as in this section provided, without a jury.

(2) A barrister shall not be qualified to constitute an election court if he is of less than fifteen years standing, or is a member of the Commons House of Parliament, or holds any office or place of profit under the Crown, other than that of recorder.

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(3) A barrister shall not be qualified to constitute an election court for trial of an election petition relating to any borough for which he is recorder, or in which he resides, or which is included in a circuit of Her Majesty's judges on which he practises as a barrister.

(4) As soon as may be after a municipal election list is made out the prescribed officer shall send a copy thereof to each of the judges for the time being on the rota for the trial of parliamentary election petitions.

The remainder of this sub-section was repealed by 47 & 48 Vict. c. 70, sched. 2, *post*. Section 36 (2), of that Act, *post*, contains the substituted provision. It provides that the judges may annually appoint a number of barristers, not exceeding five, to be commissioners for the trial of election petitions, under Part IV. of the Municipal Corporations Act, and that Act, and shall from time to time assign the petitions to be tried by each commissioner.

(5) If a commissioner to whom the trial of a petition is assigned, dies, or declines or becomes incapable to act, the said judges or two of them may assign the trial to be conducted or continued by any other of the commissioners appointed under this section.

(6) The election court shall for the purposes of the trial have the same powers and privileges as a judge on the trial of a parliamentary election petition, except that any fine or order of committal by the court may on motion by the person aggrieved be discharged or varied by the High Court, or in vacation by a judge thereof, on such terms, if any, as the High Court or judge thinks fit.

Trial of election petition.

93.—(1) An election petition shall be tried in open court, and notice of the time and place of trial shall be given in the prescribed manner not less than seven days before the day of trial.

See the general rules 40—43, *post*.

(2) The place of trial shall be within the borough, except that the High Court may, on being satisfied that special circumstances exist rendering it desirable that the petition should be tried elsewhere, appoint some other convenient place for the trial.

In an election of guardians "borough" must be read as union. Where the allegations of fact in a petition are not in dispute, but are specifically admitted by the respondent, so as to render it unnecessary at the trial to call witnesses from the district in which the election took place, the court may order the petition to be tried in London, on the ground that special circumstances exist, which render it desirable that the petition should be tried elsewhere than in the county or division where the election took place: *Arch* v. *Bentinck*, 18 Q. B. D. 548 ; 56 L. J. Q. B. 458 ; 56 L. T. (N.S.) 360 ; 35 W. R. 476.

A formal adjournment is not necessary. See rule 45, *post*.

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(3) The election court may in its discretion adjourn the trial from time to time, and from any one place to any other place within the borough or place where it is held.

(4) At the conclusion of the trial the election court shall determine whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void, and shall forthwith certify in writing the determination to the High Court, and the determination so certified shall be final to all intents as to the matters at issue on the petition.

(5) Where a charge is made in a petition of any corrupt practice or offence against this Part having been committed at the election the court shall, in addition to the certificate, and at the same time, report in writing to the High Court as follows:

(*a*) Whether any corrupt practice or offence against this Part has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt practice or offence;

(*b*) The names of all persons (if any) proved at the trial to have been guilty of any corrupt practice or offence against this Part;

(*c*) Whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election in the borough or in any ward thereof.

The court must further report as to illegal practices in manner prescribed by 47 & 48 Vict. c. 70, s. 8, sub-section (2), *post*.

(6) The election court may at the same time make a special report to the High Court as to any matters arising in the course of the trial, an account of which ought, in the judgment of the election court to be submitted to the High Court.

(7) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct the same to be stated accordingly, and any such special case shall be heard before the High Court, and the decision of the High Court shall be final.

Notwithstanding this sub-section, if leave be given, appeal lies from a judgment of the Queen's Bench Division to the Court of Appeal. See *Line* v. *Warren*, 14 Q. B. D. 548; *Beresford Hope* v. *Lady Sandhurst*, 23 Q. B. D. 79.

(8) If it appears to the election court on the trial of a petition that any question of law as to the admissibility of evidence, or otherwise, requires further consideration by the High Court, the election court may postpone the granting of a certificate until the question has been determined by the High Court, and for this purpose may reserve any such question, as questions may be reserved by a judge on a trial at nisi prius.

(9) On the trial of a petition, unless the election court otherwise directs, any charge of a corrupt practice or offence against this Part may be gone into, and evidence in relation thereto received before any proof has been given of agency on behalf of any candidate in respect of the corrupt practice or offence.

(10) On the trial of a petition complaining of an undue election and claiming the office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person.

In this case the respondent must deliver to the master, six days before the day appointed for trial, a list of the objections to the election upon which he intends to rely, and the master is to allow inspection and office copies of such list to all parties concerned; and no evidence is to be given by the respondent of any objection not specified in the list, except by leave of the High Court. See rule 8, *post*.

(11) The trial of a petition shall be proceeded with notwithstanding that the respondent has ceased to hold the office his election to which is questioned by the petition.

The respondent may cease to hold office by having resigned or become disqualified.

(12) A copy of any certificate or report made to the High Court on the trial of a petition, and, in the case of a decision by the High Court on a special case, a statement of the decision, shall be sent by the High Court to the Secretary of State.

(13) A copy of any such certificate and a statement of any such decision shall also be certified by the High Court, under the hands of two or more judges thereof, to the town clerk of the borough.

In connection with an election of guardians the copy must be sent to the clerk of the guardians.

Witnesses.

94.—(1) Witnesses at the trial of an election petition shall be summoned and sworn in the same manner, as nearly as circumstances admit, as witnesses at a trial at nisi prius, and shall be liable to the same penalties for perjury.

As to the order of the court to compel the attendance of a witness see rule 54, *post*.

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(2) On the trial the election court may, by order in writing, require any person who appears to the court to have been concerned in the election to attend as a witness, and any person refusing to obey the order shall be guilty of contempt of court.

As to the procedure in a committal for contempt of court, see rules 55, 56, *post*.

(3) The court may examine any person so required to attend or being in court although he is not called and examined by any party to the petition.

(4) A witness may, after his examination by the court, be cross-examined by or on behalf of the petitioner and respondent or either of them.

Sub-sections (5), (8), are repealed by the 47 & 48 Vict. c. 70, *post*.

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(9) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions at the assizes, may be allowed to him by a certificate of the election court or of the prescribed officer, and if the witness was called and examined by the court, shall be deemed part of the expenses of providing a court, but otherwise shall be deemed costs of the petition.

As to the costs of providing a court, see section 101, *post*; as to the costs of the petition, see section 98, *post*.

Withdrawal of petition.

95.—(1) A petitioner shall not withdraw an election petition without the leave of the election court or High Court on special application, made in the prescribed manner, and at the prescribed time and place.

The form of notice of application to withdraw a petition is prescribed by rule 58, *post*. The notice of application is to be left at the master's office, and copies are to be served on the respondent and on the town clerk or clerk of the council, as the case may be, and published in the county or borough to which the petition relates. See rules 59, 60, *post*.

The petitioners, who had presented a petition and subsequently found out that their agent's report, upon which the petition was based, was untrustworthy, were allowed by the court to withdraw the petition, the Treasury having ascertained by special inquiry that there was no reliable evidence to support it, and having received from the petitioners copies of the reports and details of the subsequent inquiries. On a motion for leave to withdraw a petition, the court has a discretion as to the costs of the parties, and may order them to be paid by the petitioners on the higher scale and taxed as between solicitor and client. They cannot give costs to the public prosecutor: *Pascoe* v. *Puleston*, 54 L. T. (N.S.) 733; 50 J. P. 135.

After a municipal election a petition was presented by an unsuccessful candidate, claiming that he was returned by a majority of lawful votes. The mayor, to save expense, induced the petitioner and the returned candidate to submit the question to the arbitration of the town clerk, who

was to re-count the votes. On the award being against the petitioner, he asked leave to withdraw the petition, and the Court allowed him to do so on payment of the costs, the public prosecutor not opposing. *Mallam* v. *Bean*, 51 J. P. 230.

(2) The application shall not be made until the prescribed notice of the intention to make it has been given in the borough.

See Rule 59, *post*.

(3) On the hearing of the application any person who might have been a petitioner in respect of the election may apply to the court to be substituted as a petitioner, and the court may, if it thinks fit, substitute him accordingly.

See Rule 61, *post*.

(4) If the proposed withdrawal is in the opinion of the court induced by any corrupt bargain or consideration, the court may by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in the security, the original petitioner and his sureties shall be liable to pay the costs of the substituted petitioner.

(5) If the court does not so direct, then security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.

As to the security required in the case of a new petition, see section 89, *ante*, p. 139.

(6) Subject as aforesaid, a substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.

(7) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

See the cases cited in the notes to (1), *supra*.

(8) Where there are more petitioners than one, an application to withdraw a petition shall not be made except with the consent of all the petitioners.

Abatement of petition.

96.—(1) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement of a petition shall not affect the liability

Section 96. of the petitioner or of any other person to the payment of costs previously incurred.

(3) On the abatement of a petition the prescribed notice thereof shall be given in the borough, and, within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the election court or High Court in the prescribed manner and at the prescribed time and place to be substituted as a petitioner; and the court may, if it thinks fit, substitute him accordingly.

As to notice of abatement of a petition, and the procedure on the application to be substituted as a petitioner, see rule 63, *post*.

(4) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.

As to security for costs, see section 89, *ante*, p. 139.

Withdrawal and substitution of respondents.

97.—(1) If before the trial of an election petition a respondent other than a returning officer—

(*a*) Dies, resigns, or otherwise ceases to hold the office to which the petition relates; or

(*b*) Gives the prescribed notice that he does not intend to oppose the petition;

the prescribed notice thereof shall be given in the borough, and within the prescribed time after the notice is given any person who might have been a petitioner in respect of the election may apply to the election court or High Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly, except that the number of persons so admitted shall not exceed three.

See rules 64 to 67 relating to the prescribed notice, time, &c. The returning officer may be a respondent if the petition complains of his conduct.

A respondent may cease to hold office through disqualification. The name of a respondent will not be struck out of a petition merely because he has given the prescribed notice under this section: see *Yates* v. *Leach*, *ante*, p. 138.

(2) A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings thereon.

Costs on election petitions.

98.—(1) All costs, charges, and expenses of and incidental to the presentation of an election petition, and the proceedings

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consequent thereon, except such as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and proportions as the election court determines; and in particular any costs, charges, or expenses which in the opinion of the court have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused, whether they are or not on the whole successful.

An overloaded petition will be visited with costs, even if it is successful: *Birkbeck* v. *Bullard*, 54 L. T. (N.S.) 625. When a petition is wholly unfounded the court may order the petitioner to pay the costs of the public prosecutor. *Crossman* v. *Gent-Davis*, 54 L. T. (N.S.) 628. In certain cases the parties may be ordered to pay the expenses of the election court. See section 101, *post*.

The barrister appointed to try the petition has an absolute discretion over the costs. In a case where the petitioner had improperly made an unsuccessful candidate a respondent, it was held that they could not object that he was not a party to the petition so as to deprive the barrister of jurisdiction to make an order upon them for his costs. *Lovering* v. *Dawson*, L. R. 10 C. P. 726; 44 L. J. C. P. 321; 32 L. T. (N.S.) 823.

(2) The costs may be taxed in the prescribed manner, but according to the same principles as costs between solicitor and client in an action in the High Court, and may be recovered as the costs of such an action, or as otherwise prescribed.

So much of this sub-section as relates to the principle of taxation is repealed by 47 & 48 Vict. c. 70, *post*. As to the mode of taxation and recovery of the costs, see rule 68, *post*, and *Pare* v. *Hartshorn*, 31 L. T. (N.S.) 486; 23 W. R. 138.

(3) If a petitioner neglects or refuses for three months after demand to pay to any person summoned as a witness on his behalf, or to the respondent, any sum certified to be due to him for his costs, charges, and expenses, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, every person who has under this Act entered into a recognisance relating to the petition shall be held to have made default in the recognisance, and the prescribed officer shall thereon certify the recognisance to be forfeited, and it shall be dealt with as a forfeited recognisance relating to a parliamentary election petition.

The prescribed officer is the master: see rule 1, *post*.

A forfeited recognisance relating to a parliamentary election petition is dealt with in manner provided by 30 & 31 Vict. c. 125, s. 42.

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Reception of and attendance on the election court.

99.—(1) The town clerk shall provide proper accommodation for holding the election court; and any expenses incurred by him for the purposes of this section shall be paid out of the borough fund or borough rate.

This duty will in case of an election petition relating to guardians devolve upon the clerk of the guardians.

(2) All chief and head constables, superintendents of police, headboroughs, gaolers, constables, and bailiffs shall give their assistance to the election court in the execution of its duties, and if any gaoler or officer of a prison makes default in receiving or detaining a prisoner committed thereto in pursuance of this Part, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

(3) The election court may employ officers and clerks as prescribed.

See rules 50 and 51, *post*.

(4) A shorthand writer shall attend at the trial of an election petition, and shall be sworn by the election court faithfully and truly to take down the evidence given at the trial. He shall take down the evidence at length. A transcript of the notes of the evidence taken by him shall, if the election court so directs, accompany the certificate of the election court. His expenses, according to a prescribed scale, shall be treated as part of the expenses incurred in receiving the court.

The shorthand writer is to be the shorthand writer to the House of Commons, or his deputy; see rule 52, *post*.

Rules of procedure and jurisdiction.

100.—(1) The judges for the time being on the rota for the trial of parliamentary election petitions, may from time to time make, revoke, and alter General Rules for the effectual execution of this Part, and of the intention and object thereof, and the regulation of the practice, procedure, and costs of municipal election petitions, and the trial thereof, and the certifying and reporting thereon.

See 47 & 48 Vict. c. 70, s. 30, *post*. The rules now in force are set out in this work after that statute.

(2) All such rules shall be laid before both Houses of Parliament within three weeks after they are made, if Parliament is then sitting, and if not, within three weeks after the beginning of the then next session of Parliament, and shall, while in force, have effect as if enacted in this Act.

(3) Subject to the provisions of this Act, and of the rules made under it, the principles, practice, and rules for the time being observed in the case of parliamentary election petitions, and in particular the principles and rules with regard to agency and evidence, and to a scrutiny, and to the declaring any person elected in the room of any other person declared to have been not duly elected, shall be observed, as far as may be, in the case of a municipal election petition. Section 100.

(4) The High Court shall, subject to this Act, have the same powers, jurisdiction, and authority with respect to a municipal election petition and the proceedings thereon as if the petition were an ordinary action within its jurisdiction.

The High Court has no power to entertain an appeal against the decision of a commissioner appointed to inquire into alleged corrupt or illegal practices at an election, except on points of law reserved for its decision by way of a case stated by the commissioners: *Ex parte Ayres*, 54 L. T. (N.S.) 296. A petition against the election of members of a local board alleged undue influence by the respondents and their agents, and that corrupt and illegal practices extensively prevailed. The commissioner reported to the High Court that no corrupt practice had been proved against the respondents or otherwise, that illegal practices extensively prevailed, and that the respondents had been guilty of illegal practices; and he certified that the respondents had not been duly elected. On a motion for a new trial or a prohibition, on the ground that the petitioner had exceeded his jurisdiction, it was held that the report was not in excess of the jurisdiction. *Quære*, whether the Court has jurisdiction to entertain an appeal from a commissioner. Per STEPHEN, J. The jurisdiction, if any, ought only to be exercised under extraordinary circumstances, and when necessary that justice should be done: *Goole Election Petition*, *Times* Reports, vol. ii., p. 398.

(5) The duties to be performed by the prescribed officer under this Part shall be performed by the prescribed officer of the High Court.

(6) The general rules in force at the commencement of this Act with respect to matters within this Part shall, until superseded by rules made under this section, and subject to any amendment thereof by rules so made, have effect, with the necessary modifications, as if made under this section.

Expenses of election court.

101.—(1) The remuneration and allowances to be paid to a commissioner for his services in respect of the trial of an election petition, and to any officers, clerks, or shorthand writers employed under this Part, shall be fixed by a scale made and varied by the election judges on the rota for the trial of parliamentary election petitions, with the approval of the Treasury. The remuneration and allowances shall be paid in the first instance

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In the case of a petition against a poor law guardian these expenses will be payable out of the common fund. See 47 & 48 Vict. c. 70, s. 36, *post*.

(2) But the election court may in its discretion order that such remuneration and allowances, or the expenses incurred by a town clerk for receiving the election court, shall be repaid, wholly or in part, to the Treasury or the town clerk, as the case may be, in the cases, by the persons, and in the manner following (namely):

(*a*) When in the opinion of the election court a petition is frivolous and vexatious, by the petitioner;

(*b*) When in the opinion of the election court a respondent has been personally guilty of corrupt practices at the election, by that respondent.

As to the expenses incurred by the clerk of the guardians, see section 99, *ante*, p. 148.

(3) An order so made for the repayment of any sum by a petitioner or respondent may be enforced as an order for payment of costs; but a deposit made or security given under this Part shall not be applied for any such repayment until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied.

As to the payment of costs, see section 98, *ante*, p. 146.

Upon the trial of a petition against the return of a borough councillor under the Municipal Elections (Corrupt Practices) Act, 1872, the barrister in delivering judgment said that he found the councillor guilty of personal bribery, and that all the costs of the inquiry were to be borne by him, and made an order in writing for the payment by the councillor of certain costs under section 19 of that Act. The written order made no provision for the remuneration and allowances to the barrister and other persons under section 22 (corresponding to the text). The Treasury paid the amount of such remuneration and allowances, and certified the payment to the borough treasurer, and required him to repay them the amount out of the borough fund. A rate was accordingly made and levied. The Treasury afterwards, on receiving from the barrister a letter that he had always intended to visit all the costs upon the councillor, and had said so in giving judgment, cancelled their certificate, and the borough corporation abandoned the rate and returned the sums levied to the ratepayers. Afterwards, the Treasury, finding that the barrister had made no written order for the payment of remuneration and allowances, issued a fresh certificate requiring the borough treasurer to repay them the amount out of the borough fund or rates. These facts being found upon a return to a *mandamus* commanding the treasurer to repay the Treasury, it was held that no valid order had been made by the barrister for the payment of the remuneration and allowances by the councillor; that the election court was a court of record, and that neither the High Court nor the Court of Appeal on the return could amend the order so as to make it include such payment; that the act of the Commissioners in certifying was not a judicial act, and that they had the power to make a second certificate, and were entitled to a peremptory

mandamus compelling the Treasury to repay to them the amount of such remuneration and allowances out of the borough fund or rates, and compelling the corporation to order such amount to be levied by a borough rate. *Reg.* v. *Maidenhead* (*Mayor of*), 9 Q. B. D. 494 ; 51 L. J. Q. B. 444 ; 46 J. P. 724.

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102. Where a candidate who has been elected to a corporate office is, by a certificate of an election court or a decision of the High Court, declared not to have been duly elected, acts done by him in execution of the office, before the time when the certificate or decision is certified to the town clerk, shall not be invalidated by reason of that declaration.

Acts done pending a petition not invalidated.

103. Where on an election petition the election of any person to a corporate office has been declared void, and no other person has been declared elected in his room, a new election shall be held to supply the vacancy in the same manner as on a casual vacancy ; and for the purposes of the election any duties to be performed by a mayor, alderman, or other officer, shall, if he has been declared not elected, be performed by a deputy, or other person who might have acted for him if he had been incapacitated by illness.

Provisions as to elections in the room of persons unseated on petition.

104. A person who has voted at a municipal election by ballot shall not in any proceeding to question the election be required to state for whom he has voted.

Prohibition of disclosure of vote.

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Working Men's Dwellings.

111.—(1) If a municipal corporation determines to convert any corporate land into sites for working men's dwellings, and obtains the approval of the Treasury for so doing, the corporation may, for that purpose, make grants or leases for terms of nine hundred and ninety-nine years, or any shorter term, of any parts of the corporate land.

Sites for working men's dwellings.

(2) The corporation may make on the land any roads, drains, walls, fences, or other works requisite for converting the same into building land, at an expense not exceeding such sum as the Treasury approve.

(3) The corporation may insert in any grant or lease of any part of the land (in this section referred to as the site) provisions binding the grantee or lessee to build thereon as in the grant or lease prescribed, and to maintain and repair the building, and prohibiting the division of the site or building, and any addition

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to or alteration of the character of the building, without the consent of the corporation, and for the re-vesting of the site in the corporation, or its re-entry thereon, on breach of any provision in the grant or lease.

(4) Every such provision shall be valid in law to all intents, and binding on the parties.

(5) All costs and expenses incurred or authorised by a corporation in carrying into execution or otherwise in pursuance of this section, shall be paid out of the borough fund and borough rate, or by money borrowed by the corporation under this Part.

(6) In this section the term working men's dwellings means buildings suitable for the habitation of persons employed in manual labour and their families; but the use of part of a building for purposes of retail trade or other purposes, approved by the council, shall not prevent the building from being deemed a dwelling.

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Special Rates.

Power to continue rates for special purposes.

123.—Where before the passing of the Municipal Corporations Act, 1835, a rate might be levied in a borough for the purpose of watching conjointly with any other purpose, nothing in this Act shall prevent the levying and collecting of such a rate for that other purpose solely, or affect the powers given in any Act anterior to the Municipal Corporations Act, 1835, as far as they relate to that other purpose; but where the amount of that rate might not before the passing of the Municipal Corporations Act, 1835, exceed a given rate in the pound on the value of property rateable thereto, the rate to be levied for the other purpose solely shall not exceed such proportion of that given rate as appears to have been expended for that other purpose by an account of the average yearly expenditure during the last seven years before the passing of the Municipal Corporations Act, 1835, or during those of the same seven years during which the rate was levied.

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Borough Rate.

Power for council to make borough rate and assess contribution thereto.

144.—(1) If the borough fund is insufficient for the purposes to which it is applicable under this Act or otherwise by law, the council shall from time to time estimate, as correctly as may be, what amount, in addition to the borough fund, will be sufficient for those purposes.

(2) In order to raise that amount, the council shall, subject to the provisions of this Act, from time to time order a rate, called a borough rate, to be made in the borough. Section 144.

(3) A borough rate may be made retrospectively, in order to raise money for the payment of charges and expenses incurred, or which have come in course of payment, at any time within six months before the making of the rate.

A similar provision is contained in section 210 of the Public Health Act, 1875. It has been decided with reference to that section that a *mandamus* will be granted to compel a local board to pay a judgment debt out of the rates though the action was not commenced within six months from the time when the cause of action accrued, but sufficient cause was shown to excuse the delay in commencing the action: *Worthington* v. *Hulton*, L. R. 1 Q. B. 63; 6 B. & S. 943; 12 Jur. (N.S.) 73; 35 L. J. Q. B. 61; 13 L. T. (N.S.) 465; 14 W. R. 632; 30 J. P. 22.

(4) The council shall assess the contributions to the borough rate on the several parishes and parts of parishes in the borough in proportion to the total annual value of the hereditaments in each parish or part which are rateable to the poor, or in respect of which a contribution is made to the poor rate.

(5) That value shall be estimated according to the valuation list (if any) in force for the time being, and if there is none, according to the last poor rate.

The valuation list here referred to is that made under the Union Assessment Committee Acts, 1862 and 1864.

(6) But if for any reason the council think that the valuation list or poor rate is not a fair criterion of value they may cause an independent valuation to be made.

(7) For the purpose of assessing a borough rate, or for the purpose of an independent valuation, the council from time to time may cause any of the books of assessment of any rates or taxes, parliamentary or parochial, on any property, and the valuation by which the assessment is made, in the hands of the overseers, to be brought before them, and may take copies thereof or extracts therefrom, or may direct any person to take copies of or extracts from such books being in his hands, without having the same brought before the council, or may call before them any overseer to give evidence respecting the same; and may cause copies of the total amount assessed in each parish in respect of any tax payable to the Crown, and the total amount of the valuation of the property on which that assessment was made in any past year, to be made out by the clerk to the commissioners of each district.

(8) The overseers and such persons as they select, by warrant of the council, signed by the mayor and sealed with the cor-

Section 144.

porate seal, may enter on, view, and examine any land chargeable to the borough rate, in order to ascertain the annual value at which it ought to be charged; but no such entry shall in any case be made unless fourteen days previous notice in writing, signed by the mayor and sealed with the corporate seal, of the intention to make the entry, has been given to the overseers and to the persons on whose land the entry is to be made.

(9) If on any occasion the overseers of a parish think that their parish is aggrieved by a borough rate, on account of the proportions assessed as the contributions of the respective parishes being unequal, or on account of some parish being without sufficient cause omitted, or on account of any other just cause of complaint, they may appeal to the recorder at the next quarter sessions for the borough, or if there is none, to the next quarter sessions for the county wherein the borough is situate, or whereto it is adjacent, against such part of the rate only as affects their parish.

(10) The recorder or quarter sessions shall hear and finally determine the appeal, and either confirm such parts of the rate as are appealed against, or correct any inequalities, disproportions, or omissions proved to exist therein, as to him or them appears just.

(11) The expenses of the appeal shall be paid by such parishes or persons and in such proportions as the recorder or court having cognisance of the appeal directs.

(12) If any person having custody of any book for which the council call under this section, fails to produce it to the council, or to permit any copy thereof or extract therefrom to be made or taken, or to give such evidence as the council require, he shall, on summary conviction, be liable to a fine not exceeding ten pounds.

(13) If any clerk to the commissioners of a district fails to make any copy, which he is required to make under this section, within a reasonable time after his receipt of the order to make it, he shall, on summary conviction, be liable to a fine not exceeding twenty pounds.

Collection of borough rate in undivided parish.

145.—(1) Where a parish is wholly in a borough, the council may from time to time, if they think fit, order the overseers to pay the contribution of the parish to the borough rate out of the poor rate made or to be made for the parish.

This section is in terms permissive, but the Act does not provide for any alternative.

(2) The overseers shall pay the contribution to the council or as they order. Section 145.

(3) If the overseers fail to pay as ordered, the amount may be levied off the goods of them or any of them, by distress, by virtue of a warrant signed by the mayor and sealed with the corporate seal, or signed by two justices in and for the borough.

Collection of borough rate in divided parish.

146.—(1) Where a parish is partly in and partly out of a borough, the overseers, on receipt of an order for payment of money for the contribution of the part in the borough towards a borough rate, which order the council may make as if the whole parish was in the borough, shall assess on and levy from the occupiers of hereditaments rateable to the poor rate in that part of the parish the amount necessary for the contribution, either as a separate rate, for which the overseers shall have all the powers which belong to them for levying a poor rate, or with and as part of the poor rate to which occupiers in that part of the parish are liable in common with occupiers in the other part.

(2) Any person rated under this section may appeal against the rate in like manner and with the like consequences, and subject to the like provisions and regulations, as in appeals against a poor rate.

(3) The overseers shall pay the amount of the contribution to the council, or as they order, and in default thereof shall be subject to all provisions and penalties provided by law concerning non-payment of contribution to a borough rate.

The provisions and penalties here referred to are those mentioned in the preceding section.

(4) Every overseer and collector shall account for the money collected and expended under this section to the auditor of the district comprising the parish in the like manner, and with the like incidents, consequences, liabilities, and power of appeal as in the case of the poor rate; and the Local Government Board shall have the like power to make orders to regulate the mode of accounting as they have in regard to other local rates.

(5) If any balance is found in the hands of any such overseer or collector he shall apply it towards the next rate required under this section, or pay it to his successor in office.

Section 146.

(6) In default of his so applying it while in office, or making payment to his successor within seven days after the balance is found, the auditor shall proceed to recover it.

The procedure for the recovery by an auditor of sums certified by him to be due from any person have been already set out, *ante*, p. 115.

(7) The officers ordinarily employed in the collection of the poor rate shall, if required by the overseers, collect the rate under this section, and shall receive thereout such remuneration for the additional duty as the overseers, with the consent of the vestry, determine.

(8) The collector or other person appointed shall, for the purposes of this section, have all the powers of overseers.

(9) The overseers, in estimating the amount of their assessment under this section, may include a sum for costs of assessment and collection, and a reasonable sum for rates excused or irrecoverable.

Rating of owners instead of occupiers for borough rate in certain cases. 32 & 33 Vict. c. 41.

147. Where the vestry of a parish has made or makes, before or after the commencement of this Act, under section four of the Poor Rate Assessment and Collection Act, 1869, an order, as in that section provided, to the effect that the owners, instead of the occupiers, of such rateable hereditaments, as therein mentioned, shall be rated to the poor rate in respect thereof, every such order, while in force after the commencement of this Act, shall be deemed to apply to and include rating to the borough rate, with the same incidents, conditions, powers, liabilities, and remedies as if the borough rate were a poor rate.

The provisions of 32 & 33 Vict. c. 41, s. 4, have been already set out, *ante*, p. 113.

Warrants for levy of borough rate.

148. Any warrant required for the levy or collection of a borough rate may be issued by the mayor, signed by him, and sealed with the corporate seal.

Borough rate to go to borough fund; and its application.

149. All sums levied in pursuance of the borough rate shall go to the borough fund; and, subject to the foregoing provisions of this Part, the same shall be applied to all purposes to which the borough fund is applicable under this Act, or otherwise by law; and, as regards a borough named in the schedules to the Municipal Corporations Act, 1835, to all purposes to which, before the passing of that Act a borough rate was by law applicable in the borough, or a county rate was applicable in a county.

County Rate.

Section 150.

General exemption of quarter sessions boroughs from county rate.

150.—(1) Where a borough has a separate court of quarter sessions, the justices of a county wherein the borough or any part thereof is situate shall not assess any hereditaments in the borough to any county rate; and except as is expressly by this Act provided, every part of the borough shall be wholly free from contributing to any rate or assessment of any kind of and for that county.

(2) But nothing in this section shall prevent the levy or collection of arrears of any county rate made before the grant of a separate court of quarter sessions.

This and the following sections are considerably modified by the provisions of the Local Government Act, 1888. By section 32 of that Act county boroughs cease to contribute to county rate. Non-county boroughs are divided by that Act into two classes, those having a population of over 10,000 and those having a population of less than that number. The latter class form part of the county and are assessable to the county rate in respect of certain special county purposes, such as contagious diseases of animals, coroners, destructive insects, explosives, fish conservancy, gas meters, pauper lunatics, police, reformatory and industrial schools, riot damages, sale of food and drugs, weights and measures. All boroughs are liable to be assessed to county rate for certain general county purposes, of which the chief is the maintenance of main roads and bridges.

Liability of quarter sessions borough for prosecution expenses of county.

151. The municipal corporation of a borough having a separate court of quarter sessions shall be liable to pay such sums, if any, as are expended out of the county rate of the county in which the borough is situate, and as are not otherwise paid or chargeable, in respect of the costs arising out of the prosecution, maintenance, conveyance, transport, or punishment of all offenders committed for trial from the borough to the assizes for the county.

This section is to some extent modified by the Local Government Act, 1888, section 32 (3).

Liability of certain quarter sessions boroughs to other county expenses.

152.—(1) If the whole or any part of the area for the time being comprised in a borough having a separate court of quarter sessions was, before the eleventh of July one thousand eight hundred and thirty-two, chargeable with or liable to contribute to the county rate of the county in which it is situate, the municipal corporation shall, in addition to its liability to pay for the purposes mentioned in the last foregoing section, continue liable to contribute to the county rate for other purposes (in this Act referred to as general county purposes), as if this Act had not been passed.

(2) General county purposes shall not include the costs arising out of coroners inquests, or the expenses incurred under

Section 152. the Sale of Food and Drugs Act, 1875, in respect of the county, or, in the case of a borough having its own inspector of weights and measures, the expenses relating to the inspection of weights and measures for the county, or payments to or in respect of special constables.

38 & 39 Vict. c. 63.

See the note to section 150, *ante*.

Mode of accounting by borough to county.

153.—(1) The treasurer of each county shall, not more than twice in every year, send to the council of each borough situate in the county and having a separate court of quarter sessions an account showing separately—

(*a*) The sums, if any, expended out of the county rate in respect of the costs arising out of the prosecution, maintenance, conveyance, transport, or punishment of offenders committed for trial from the borough to the assizes for the county; and

(*b*) If the borough is liable to contribute to the county rate for general county purposes, all sums expended out of the county rate for general county purposes, and all sums received in aid or on account of the county rate, and the proportion chargeable on the borough of the sums so expended after deduction of the sums so received;

and shall make an order on the council for the payment of the sum appearing by this account to be due from the municipal corporation of the borough.

(2) The council shall thereupon forthwith order the sum so appearing to be due, with all reasonable charges of making and sending the account, to be paid to the treasurer of the county out of the borough fund.

(3) If the order is not complied with, two justices for the county may, on the complaint of the treasurer of the county, made within one month after the issue of the order, issue and send to the treasurer of the borough a warrant requiring him to pay to the treasurer of the county, besides the sum mentioned in the order, the additional sum mentioned in the warrant, the same being calculated in the proportion of one shilling to every ten on the sum mentioned in the order; and until payment thereof the treasurer of the county shall have, in respect of the warrant, all the powers for the recovery thereof which are given against a guardian or overseer for the recovery of county rates and surcharges.

(4) If any difference arises concerning the account, it shall be decided by the arbitration of a barrister, named, on the application either of the treasurer of the county or of the treasurer of the borough, by the Secretary of State. The arbitrator may, if he thinks fit, adjourn the hearing from time to time, and may require all such information to be afforded by either party as he thinks fit. He shall by his award in writing determine the amount to be paid by the council to the treasurer of the county, and his award shall be final and conclusive. He shall also assess the costs of the arbitration and determine by whom and out of what fund they shall be paid. Section 153.

The Local Government Act, 1888, section 32 (8) provides that any contribution by a county borough to the county in pursuance of that section shall be made in accordance with the above provisions.

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165.—(1) The recorder shall hold, once in every quarter of a year, or oftener, if and as he thinks fit, or the Secretary of State directs, a court of quarter sessions in and for the borough. Recorder to hold court of quarter sessions.

(2) He shall sit as sole judge of the court.

(3) The court shall be a court of record, and shall have cognisance of all crimes, offences, and matters cognisable by courts of quarter sessions for counties in England; and the recorder shall, notwithstanding his being sole judge, have power to do all things necessary for exercising that jurisdiction as fully as those courts.

The recorder has jurisdiction to try appeals against orders of removal made by borough justices: *Reg.* v. *Recorder of Hull*, 8 A. & E. 638; *Reg.* v. *Ludlow*, 11 A. & E. 170; *Reg.* v. *St. Edmunds Sarum*, 2 Q. B. 72; 10 L. J. M. C. 138. He may also try an indictment for keeping a disorderly house: *Reg.* v. *Charles*, 1 L. & C. 90. He may try an appeal against an order for the maintenance of a pauper lunatic, under 16 & 17 Vict. c. 97, where the parish is situate wholly within the borough: *Reg.* v. *Warwickshire JJ.*, 28 L. J. M. C. 249; 33 L. T. 201; 23 J. P. 757; but not in cases where the parish or union extends into several jurisdictions: *Reg.* v. *Kent JJ.*, L. R. 1 Q. B. 385; 35 L. J. M. C. 201; 14 L. T. (N.S.) 331; 30 J. P. 612. See also *Reg.* v. *Salop JJ.*, 4 E. & B. 257; 24 L. J. M. C. 14; 19 J. P. 149. These last cases may however be affected by 30 & 31 Vict. c. 106, s. 27, which provides that where a union extends into several distinct jurisdictions, every matter, act, charge, or complaint by which the guardians thereof are affected, or in which they have any interest shall for the purpose of jurisdiction be deemed to arise or exist equally throughout the union.

(4) But the recorder shall not, by virtue of his office, have power

(*a*) To allow, apportion, make, or levy any borough rate; or

(*b*) Subject to the provisions of this Act respecting appeals from a rate, to do any act in relation to the allowance,

Section 165.

apportionment, making, or levying of any rate whatsoever; or

(*c*) To grant any licence or authority to any person to keep an inn, alehouse, or victualling house to sell exciseable liquors by retail; or

(*d*) To exercise any power by this Act specially vested in the council.

The provisions of the Act respecting appeals from a rate are contained in section 144 (9), (10), *ante*, and section 198, *post*.

An appeal against the refusal to transfer or renew a license lies to the county quarter sessions, not to the recorder: *Reg.* v. *Deane*, 2 Q. B. 96; *Reg.* v. *Bristol, Recorder of*, 4 E. & B. 265; 24 L. J. M. C. 43; 19 J. P. 342.

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Liability of borough having quarter sessions for prosecutors expenses.

169. A municipal corporation of a borough having a separate court of quarter sessions shall be liable to pay the costs and expenses attending the prosecution of any felony committed or supposed to have been committed in the borough, and of any other offence committed or supposed to have been committed in the borough the costs and expenses attending the prosecution whereof are by law payable as in the case of a felony. The amount of those costs and expenses shall be ascertained as directed by law, and the order of the court for the payment thereof shall be directed to the treasurer of the borough.

By the Local Government Act, 1888, section 32, a county borough must contribute a share of the costs of the assizes of the county, and if it is not a quarter sessions borough a share of the costs of quarter sessions. By section 35 which applies to boroughs having a population exceeding 10,000, the payment of the costs of assizes and sessions is to be a general county purpose for which the parishes in the borough may be assessed to county contributions and all costs of prosecutions mentioned in the text are to be paid out of the county fund. By section 38 which applies to the smaller quarter sessions boroughs, the area of such a borough is, for all administrative purposes, to be included in the county as if the borough had not a separate court of quarter sessions, and the parishes in the borough are to be liable to be assessed to all county contributions.

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Watch Rate.

Levy of watch rate.

197.—(1) Where at the commencement of this Act any rate might be levied in a borough, or in any part of a borough, for the purpose of watching solely by day or by night, or for the purpose of watching by day or by night conjointly with any other purpose, the council may from time to time make and levy a watch rate on the occupiers of all hereditaments within

such parts of the borough as are watched by day and by night, and as are from time to time, by order of the council, declared liable to watch rate. Section 197.

Formerly every municipal borough might have a separate police force, but since the passing of the Local Government Act, 1888, all boroughs having a population of less than 10,000 form part of the county for purposes of police, and consequently this section will have no application in such boroughs.

(2) The watch rate shall be made on an estimate of the net annual value of the several hereditaments rated thereto, that is to say, of the rent at which, one year with another, they might in their actual state be reasonably expected to let from year to year, the probable annual average cost of the repairs, insurances, and other expenses necessary to maintain them in their actual state, and all rates, taxes, and public charges, except tithes or tithe commutation rentcharge (if any), being paid by the tenant.

(3) The watch rate may be made by one rate made yearly, or by two or more rates made half-yearly or otherwise, and may be of any amount, in the discretion of the council, not exceeding in any year eightpence in the pound on the net annual value of the hereditaments rated thereto.

(4) For the purposes of the watch rate the council and all persons concerned, including overseers, shall have all powers given to them in respect of the borough rate for ordering, making, assessing, levying, raising, collecting, or paying the same, or as near thereto as the nature of the case admits.

As to the making and levying of the borough rate, see sections 144—146, *ante*.

(5) The provisions of this Act relating to orders of vestries for the rating, in some cases, of owners, instead of occupiers, shall extend to the watch rate.

See section 147, *ante*.

(6) Nothing in the foregoing provisions of this section (except the general power to levy a watch rate) shall apply to any borough in which the borough fund is sufficient with the aid of the amount only of watch rate which could for the time being be raised therein under the Municipal Corporations Act, 1835, and without the aid of any borough rate, to defray the expenses of the constabulary force of the borough, with all other expenses legally payable out of the borough fund; but nothing in the present provision shall affect any benefit or right reserved by Part X., or make the borough fund liable to any expenses with which it would not be otherwise chargeable.

Section 197.

(7) Nothing in this section shall affect the liability of the borough fund to make good any deficiency of the watch rate towards the expenses of the police.

(8) Nothing in this section shall make liable to watch rate any hereditaments exempted by any local Act from payment of watch rate.

(9) Nothing in this section shall alter the comparative liability to watch rate of any hereditaments which are under any local Act in respect of any watch rate entitled to any deduction from, or chargeable with any increase on, an equal pound rate; but the like comparative deductions and increased charges shall be made under this section.

Watch rate in divided parish.

198.—(1) Where part only of a parish is liable to watch rate, the overseers shall not pay out of the poor rate the amount of the watch rate charged by the council on that parish, but shall make a separate rate or assessment on the part or parts only of the parish liable to watch rate; which rate shall be made in like manner and under like regulations and with like means and remedies for recovery thereof as in the case of a rate levied in respect of the contribution towards a borough rate.

As to the making of the borough rate, see sections 144—146, *ante*.

(2) No such separate rate shall be demanded, collected, or payable until it has been allowed by two justices usually acting in and for the borough and has been published, as a poor rate is by law required to be allowed and published.

A rate is deemed to be made when it is allowed, 32 & 33 Vict. c. 41, s. 17.

A poor rate must be published by affixing copies on the Sunday next after the allowance previously to Divine Service, on or near to the doors of all the churches and chapels within the parish. See the notes to 45 & 46 Vict. c. 20, s. 4, *ante*, p. 109.

(3) Any person who thinks himself aggrieved by such a separate rate may appeal to the recorder at the next quarter sessions for the borough, or if there is none to the next court of quarter sessions for the county wherein the borough is situate, or whereto it is adjacent; and the recorder or court shall hear and determine the same, and shall award relief in the premises as in cases of appeal against a poor rate.

(4) Every such separate rate may be of the rate in the pound necessary for raising the sum charged by the council, but not exceeding twopence in the pound beyond the rate in the pound at which the council have computed the watch rate charged by them.

(5) The overseers shall account for money collected under such a separate rate as for money collected under a poor rate;

and if there is a surplus in their hands, they shall pay it to the treasurer, to go to the borough fund, to the credit of the place for which the rate was made, and in part payment of the next watch rate laid on that place by the council. Section 198.

(6) The council or a committee appointed for this purpose, on application on behalf of any person rated to such a separate rate to be discharged therefrom, and on proof of his inability through poverty to pay the amount charged on him, may order that he be excused from the payment thereof, and may strike out his name therefrom; and the sum at which he was rated shall not thereafter be collected, nor shall any person be charged with it or be liable to account for it or for omitting to collect or receive it.

(7) The overseers making any such separate rate may, by warrant from two justices usually acting in and for the borough, levy on every person refusing to pay the rate the amount charged on him, with the costs and charges of recovering and enforcing payment thereof, to be ascertained by the justices, by distress and sale of the offender's goods, rendering to him the overplus; and in default of such distress two justices may commit him to prison, there to remain without bail until payment of the amount and arrearages.

Warrant for levy of watch rate.

199. Any warrant required for the levy or collection of a watch rate or separate rate may be issued by the mayor, signed by him, and sealed with the corporate seal.

Watch rate to go to borough fund.

200. All money raised by a watch rate, or by a separate rate as last aforesaid, shall go to the borough fund.

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Adjustment between boroughs and counties on change of boundaries.

229. If any place, which under the Municipal Corporations Act, 1835, or any Act amending it, ceased to be included in a borough or county of a town or city, was before the passing of the Municipal Corporations Act, 1835, liable to contribute to any rate for satisfying any lawful debt to which the ratepayers of that borough or county were then liable, and if after the commencement of this Act any difference arises concerning the proportion of that debt to be contributed in respect of that place, the Secretary of State, on the application of the council, or of the chairman of a public meeting of the ratepayers of the place, may appoint by writing under his hand a barrister not having any interest in the question to arbitrate between the parties, and by his award under his hand and seal to assess the proportion

Section 229.

aforesaid, if any; and the arbitrator shall assess the costs of the arbitration, and direct by whom and in what proportion and out of what fund they shall be paid; and the rate aforesaid shall continue to be levied by warrant of the council and to be paid by the place aforesaid to the treasurer of the borough, as if the Municipal Corporations Act, 1835, or any Act amending it, or this Act, had not been passed, until the proportion aforesaid is satisfied, and no longer.

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Overseers.

Notices to and acting of overseers.

238.—(1) Every matter by the Municipal Corporations Acts directed to be done by overseers may be lawfully done by the major part of them.

(2) Any notice by the Municipal Corporations Acts required to be given to overseers may be delivered to any one of them, or left at his place of abode, or at his office for transacting parochial business.

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Misnomer or Inaccurate Description.

Misnomer or inaccurate description not to hinder.

241. No misnomer or inaccurate description of any person, body corporate, or place named in any schedule to the Municipal Corporations Act, 1835, or in any roll, list, notice, or voting paper required by this Act, shall hinder the full operation of this Act with respect to that person, body corporate, or place, provided the description of that person, body corporate, or place be such as to be commonly understood.

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Savings.

250. * * * *

(3) Nothing in this Act shall affect the right of the council of a borough to collect by their own officers the borough rate and watch rate, or either of them, where, at the commencement of this Act, they are authorised by law to so collect, and are so collecting, the same.

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Saving for local Acts.

251. Nothing in this Act shall alter the effect of any local Act of Parliament.

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257. Nothing in this Act shall— Section 257.

Saving for universities.

(1) Affect the rights, privileges, duties, or liabilities of the chancellor, masters, and scholars of the Universities of Oxford and Cambridge respectively, as by law possessed under the respective charters of those universities or otherwise; or

(2) Entitle the mayors of Oxford and Cambridge respectively to any precedence over the vice-chancellors of those universities respectively; or

(3) Entitle any person to be enrolled a citizen of the city of Oxford or burgess of the borough of Cambridge by reason of his occupation of any rooms, chambers, or premises in any college or hall of either of those universities; or

(4) Compel any resident member of either of those universities to accept any office in or under the municipal corporation of Oxford or of Cambridge; or

(5) Authorise the levy of any rate within the precincts of those universities, or of any of the colleges or halls thereof, which now by law cannot be levied therein, or make either of those universities, or the members thereof, liable to any rate to which they are not liable to contribute at the commencement of this Act; or

(6) Authorise the transfer of any rights or liabilities by a local authority to the municipal corporation of the borough of Cambridge without the consent of the chancellor, master, and scholars of the University of Cambridge; or

(7) Affect the rights or privileges granted by charter or Act of Parliament to the University of Durham.

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Schedule.

THE FIFTH SCHEDULE.

PAYMENTS OUT OF THE BOROUGH FUND.

PART I.

Payments which may be made without Order.

1. The remuneration (if any) of the mayor, of the recorder (if any) in his capacity either of recorder or of judge of a borough civil court, of the stipendiary magistrate (if any), of the town clerk, of the treasurer, of the clerk of the peace when paid by salary, of every other officer appointed by the council, and of the clerk to the justices.

2. The remuneration and allowances certified by the Treasury to be payable to the Treasury in respect of an election petition.

3. The remuneration certified by the recorder to be due to any assistant recorder, assistant clerk of the peace, or additional crier.

PART II.

Payments which may not be made without Order.

13 & 14 Vict. c. 42, s. 3. 41 & 42 Vict. c. 26.

1. The expenses incurred by overseers, and by the town clerk and other municipal authorities, in relation to the enrolment of burgesses and the holding of municipal elections, or so much of those expenses as is not otherwise provided for under section thirty of the Parliamentary and Municipal Registration Act, 1878.

2. The expenses incurred by the town clerk in providing accommodation for an election court held under this Act.

3. The expenses of providing, furnishing, maintaining, or improving the corporate buildings, including the justices room (if any), and the necessary expenses of that room.

4. The fees payable to the clerk of the peace if not paid by salary, and under this Act to the borough coroner.

5. The payments to be made under this Act to or in respect of the borough police and to any special constable, including the following payments (namely);

(*a*) Such salaries, wages, and allowances to the borough constables, and at such periods, as the watch committee, with the approbation of the council, direct; and

(*b*) Such further sum as may be awarded by the watch committee, subject to the approbation of the council, or by the court of quarter or petty sessions, to a borough constable as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in the performance of his duty, or as may be awarded by the watch committee, subject to the approbation of the council, to a borough con-

stable, as an allowance to him when disabled by bodily injury, or worn out by length of service; and

(*c*) Any extraordinary expenses which a borough constable appears to have necessarily incurred in apprehending offenders and executing the orders of any justice having jurisdiction in the borough, such expenses having been first examined and approved by that justice; and

(*d*) All other charges and expenses which the watch committee, subject to the approbation of the council, direct to be paid for the purposes of the borough constabulary force.

6. The costs and expenses payable by the corporation in respect of the prosecution, maintenance, conveyance, transport, or punishment of offenders.

7. All sums payable under this Act by the corporation of the borough to the treasurer of a county.

8. The expenses of and incidental to the division of a borough into wards or the alteration of wards, including the remuneration of the commissioner appointed for the purposes of the division or alteration.

9. Such remuneration to the clerk to any commissioners for taxes in respect of making copies of assessments as the council think reasonable.

10. The expenses of and relating to a charter of incorporation for a borough, and of and relating to all elections, acts, and proceedings under the charter.

11. All expenses charged on the borough fund by any Act of Parliament or otherwise by law.

12. All other expenses, not by this Act otherwise provided for, necessarily incurred in carrying this Act into effect.

* * * * *

Preamble.

THE ARTIZANS DWELLINGS ACT, 1882.

45 & 46 VICT. CHAP. 54.

An Act to amend the Artizans and Labourers Dwellings Acts.
[18th August, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. This Act may be cited as the Artizans Dwellings Act, 1882.

This Act is divided into two distinct parts. The first part is to be read along with the Artizans and Labourers Dwellings (Improvement) Acts, which form the third of the groups mentioned below. Part II. is to be read along with the Artizans Dwellings Acts which form the second of the groups mentioned below.

It must be borne in mind that there are three distinct groups of Acts dealing with artizans and labourers dwellings.

The first consists of the Labouring Classes Lodging Houses Acts (14 & 15 Vict. c. 34; 29 & 30 Vict. c. 28; 30 & 31 Vict. c. 28). These Acts enable local authorities to provide lodging-houses for the labouring classes, and to fit up and furnish them with all necessary furniture, fittings, and appliances. By reason of the extended meaning given to the word "lodging-houses" by the Act of 1885, a local authority may, under this group of Acts, provide a cottage and a garden of not more than half an acre, of which the yearly value does not exceed 3*l*. These Acts may be put in operation by all sanitary authorities, urban or rural.

The second consists of the Artizans Dwellings Acts (31 & 32 Vict. c. 130; 42 & 43 Vict. c. 64; 45 & 46 Vict. c. 54, Part II.). Their object may be said to be the pulling down of premises in a state dangerous to health or unfit for human habitation, or which are necessary for the opening up and ventilation of courts and alleys. They cannot be put in operation except by district boards or vestries in the metropolis, the commissioners of sewers in the city of London, and urban sanitary authorities in boroughs and urban sanitary districts.

The third consists of the Artizans and Labourers Dwellings Improvement Acts (38 & 39 Vict. c. 36; 42 & 43 Vict. c. 63; and 45 & 46 Vict. c. 54, Part I.). This group enables the local authority to deal not merely with unhealthy houses, but with unhealthy areas. Its objects are more fully stated in the preamble to the 38 & 39 Vict. c. 36. This group applies to the city of London, the metropolis, and all urban sanitary districts.

The Housing of the Working Classes Act, 1885, 48 & 49 Vict. c. 72, amends and is to a certain extent to be read as one with each of the above groups. But, although it provides for the dealing with certain cases arising under Group II., under the powers conferred by Group III., and *vice versâ* it does not really affect the distinct character of each group. See the notes to 48 & 49 Vict. c. 72, s. 5 *post*; see also section 6, *infra*.

Section 2.

PART I.

Artizans and Labourers Dwellings Improvement Acts, 1875 and 1879.

Construction of Part I. of Act. 38 & 39 Vict. c. 36. 42 & 43 Vict. c. 63.

2. This part of this Act shall be construed as one with the Artizans and Labourers Dwellings Improvement Acts, 1875 and 1879, and those Acts together with this part of this Act may be cited together as the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882.

See the note to the preceding section. The Acts referred to are 38 & 39 Vict. c. 36, and 42 & 43 Vict. c. 63.

Amendment of 38 & 39 Vict. c. 36, s. 5, as to the provision of accommodation for the working classes.

3. Whereas by section five of the Artizans and Labourers Dwellings Improvement Act, 1875, it is provided, amongst other things, that an improvement scheme of a local authority shall provide for the accommodation of at the least as many persons of the working class as may be displaced in the area with respect to which the scheme is proposed in suitable dwellings which, unless there are special reasons to the contrary, shall be situate within the limits of the same area or in the vicinity thereof:

And whereas by section four of the Artizans and Labourers Dwellings Improvement Act, 1879, it is provided that the above requirements of section five of the Artizans and Labourers Dwellings Improvement Act, 1875, may, if the confirming authority so authorise, be complied with by the provision of equally convenient accommodation at some place other than within the area or the immediate vicinity of the area comprised in such scheme:

And whereas it is expedient to make further provision respecting such accommodation: Be it therefore enacted as follows:

Where an improvement scheme of a local authority comprises an area situate in the Metropolis or the City of London, the confirming authority shall, without prejudice to the powers conferred on it by the said fourth section of the Artizans and Labourers Dwellings Improvement Act, 1879, be authorised (on the application of the local authority, and on a report being made by the officer conducting the local inquiry directed by the confirming authority that it is expedient having regard to the special circumstances of the locality and to the number of artizans and others belonging to the labouring class dwelling within the area, and being employed within a mile thereof,

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that a modification should be made) to dispense in the provisional order authorising the scheme altogether with the obligation of the local authority to provide for the accommodation of the persons of the working class who may be displaced by their scheme to such extent as he may think expedient, having regard to such special circumstances as aforesaid, but not exceeding one-half of the persons so displaced, and where any such improvement scheme comprises an area situate elsewhere than in the Metropolis or the City of London, it shall, if the confirming authority so require (but it shall not otherwise be obligatory on the local authority so to frame their scheme), provide for the accommodation of such number of those persons of the working class displaced in the area with respect to which the scheme is proposed in suitable dwellings to be erected in such place or places either within or without the limits of the same area as the said authority on a report made by the officer conducting the local inquiry may require.

The twelfth section of the Artizans and Labourers Dwellings Improvement Act, 1875, and any other enactment relating to the requirement of the said Act as to the accommodation of the working classes, shall be construed with reference and subject to the modifications made by this Act.

The power by this section given to the confirming authority to dispense altogether with the obligation of the local authority to provide for the accommodation of the persons of the working class who may be displaced by their scheme to an extent not exceeding one-half of the persons so displaced may (in the case of any scheme which has, before the passing of this Act, been authorised by a confirming Act) upon the application of the local authority be exercised by the confirming authority by an order made at any time within twelve months after the passing of this Act.

The effect of the several sections recited in the text as amended by the above enactment may be thus stated. Section 5 of the Act of 1875 requires that an improvement scheme shall provide for the accommodation of at least as many persons as might be displaced in the area dealt with. This accommodation was to consist of suitable dwellings, which were to be situate within the same area, or in the vicinity thereof. The sufficiency, &c., of the accommodation proposed would, of course, be considered by the confirming authority, on the report made by their officer, under section 6, and that section enables the confirming authority to make the provisional order either absolutely or with modifications which might, as it is submitted, have reference to the provision of accommodation for the persons displaced.

Section 12 of the same Act enables the confirming authority to modify the scheme in the cases mentioned in the section, even after the scheme has received the authority of the Act of Parliament. But it was one of the conditions of such a modification that due provision had been secured for the accommodation of the persons displaced, or would be better secured

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by the proposed modification. The Act of 1879 (42 & 43 Vict. c. 63, s. 4) enabled the confirming authority to authorise or modify a scheme under which equally convenient accommodation was provided for the persons displaced, at some place other than within the area or its immediate vicinity. The text contains a further alteration of the law. If in the metropolis the officer conducting the local inquiry reports that a modification should be made, the confirming authority may dispense with the obligation to provide accommodation to an extent not exceeding one-half of the persons displaced. In the case of a scheme elsewhere than in the metropolis, while it is still necessary that the scheme should provide for the accommodation of persons displaced, if the confirming authority require it, in the absence of any such requirement it is no longer obligatory on the sanitary authority to make any such provision in the scheme.

The last clause of the section is now spent.

The local authorities for the execution of this group of Acts were, in the city of London, the commissioners of sewers: in the metropolis the Metropolitan Board of Works: and in urban sanitary districts, the urban sanitary authorities. The confirming authorities were, in London and the metropolis, a Secretary of State, and in urban sanitary districts the Local Government Board. See 38 & 39 Vict. c. 36, ss. 2, 6, as amended by 48 & 49 Vict. c. 72, s. 5, *post*. Since the passing of the Local Government Act, 1888, the powers of the Metropolitan Board of Works are transferred to the London county council; 51 & 52 Vict. c. 41, s. 40, sub-section (8).

Amendment of 38 & 39 Vict. c. 36, s. 19, as to the valuation of land.

4. Whereas it is expedient to amend section nineteen of the Artizans and Labourers Dwellings Improvement Act, 1875: Be it therefore enacted as follows:

In the estimate of the value of the said lands or interests in the said section in that behalf mentioned any addition to or improvement of the property made after the date of the publication of an advertisement in pursuance of section six of the said Act stating the fact of the improvement scheme having been made shall not (unless such addition or improvement was necessary for the maintenance of the property in a proper state of repairs) be included, nor in the case of any interest acquired after the said date shall any separate estimate of the value thereof be made so as to increase the amount of compensation to be paid for the lands, and the words "and all circumstances affecting such value" in the said section are hereby repealed.

The provisions of 38 & 39 Vict. c. 36, s. 19, are as follows:—

(1) The clauses of the Lands Clauses Consolidation Act, 1845, with respect to the purchase and taking of lands otherwise than by agreement shall not, except to the extent set forth in the schedule hereto, apply to any lands taken in pursuance of this Act, but save as aforesaid the said Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, as amended by the provisions contained in the schedule hereto, shall regulate and apply to the purchase and taking of lands in England, and shall for that purpose be deemed to form part of this Act in the same manner as if they were enacted in the body thereof; and (2) "The Lands Clauses Consolidation Act, 1845," as amended by "The Lands Clauses Consolidation Act, 1860," "The Railways Act (Ireland), 1851," "The Railways Act, (Ireland), 1860," "The Railways Act (Ireland), 1864," and "The Railways Traverse Act," shall, subject to the provisions following, regulate and apply to the purchase and taking of lands in Ireland, and shall for this purpose be deemed to

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NOTE.

form part of this Act, in the same manner as if they were enacted in the body hereof.

Subject, as respects both England and Ireland, to the provisions following; that is to say,

(1) This Act shall authorise the taking by agreement any lands which the local authority may require for the purpose of carrying into effect the scheme authorised by any confirming Act, but it shall authorise the taking by the exercise of any compulsory powers of such lands only as are proposed by the scheme in the confirming Act to be taken compulsorily:

(2) Whenever the compensation payable in respect of any lands or of any interests in any lands proposed to be taken compulsorily in pursuance of this Act requires to be assessed, the estimate of the value of such lands or interests shall be based upon the fair market value, as estimated at the time of the valuation being made of such lands, and of the several interests in such lands, due regard being had to the nature and then condition of the property, and the probable duration of the buildings in their existing state, and to the state of repair thereof, and all circumstances affecting such value, without any additional allowance in respect of the compulsory purchase of an area or of any part of an area in respect of which an official representation has been made, or of any lands which in the opinion of the arbitrator have been included in a scheme as falling under the description of property named in the third section of this Act:

(3) In the construction of the said Lands Clauses Consolidation Acts, and the provisions in the said schedule, this Act shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking; and the period after which the powers for the compulsory purchase or taking of lands shall not be exercised shall be three years after the passing of the confirming Act.

It should be mentioned that the schedule referred to in 38 & 39 Vict. c. 36, s. 19, is largely repealed by this Act. See the next section. It should also be noticed that this section was not in force when the action of *Wilkins* v. *Mayor, &c., of Birmingham*, 25 Ch. D. 78; 32 W. R. 118; 49 L. T. (N.S.) 468, was commenced. There it was held, independently of this section, that the publication of the requisition under section 6, of schedule to the Act of 1875, was analagous to the notice to treat under the Lands Clauses Act, and that a landowner affected by it could not afterwards change his position, or obtain an increased interest in premises so as to entitle him to increased compensation.

Amendment of schedule to 38 & 39 Vict. c. 36.

5. There shall be repealed so much of the schedule to the Artizans and Labourers Dwellings Improvement Act, 1875, as is comprised under the heading "Proceedings on Arbitration," that is to say, articles numbered (5) to (13) both inclusive, and there shall be substituted therefor the articles contained in the schedule hereto; Provided that such repeal shall not affect anything duly done or suffered under any provision hereby repealed.

Limit of area to be dealt with on official representation.

6. Where an official representation made to the Metropolitan Board of Works in pursuance of the Artizans and Labourers Dwellings Improvement Act, 1875, relates to not more than ten houses, the Metropolitan Board of Works shall not take any proceedings on such representation, but shall direct the officer

making the same to report the case to the local authority as defined by the Artizans and Labourers Dwellings Act, 1868, and it shall be the duty of the local authority to deal with such case in manner provided by the last-mentioned Act, and the Acts amending the same. Section 6. 31 & 32 Vict. c. 100.

The powers of the Metropolitan Board of Works are now transferred to the London county council: 51 & 52 Vict. c. 41, s. 40, sub-section (8).

The local authority under 31 & 32 Vict. c. 130, is the vestry or district board. The effect of this provision is to enable a scheme relating to ten houses, or fewer to be dealt with under the second group of Acts above mentioned instead of under the third. See the note to section 1.

PART II.

7. This part of this Act shall be construed as one with the Artizans and Labourers Dwellings Act, 1868, and the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879, and those Acts and this part of this Act may be cited together as the Artizans Dwellings Acts, 1868 to 1882. Construction of Part II. 31 & 32 Vict. c. 130. 42 & 43 Vict. c. 64.

As already stated in the note to section 1, *ante*, this part of the Act amends a distinct group of statutes: 31 & 32 Vict. c. 130, and 42 & 43 Vict. c. 64, with which must now be read 48 & 49 Vict. c. 72, *post*.

8.—(1) If in any place to which the Artizans and Labourers Dwellings Act, 1868, applies the officer of health finds that any building, although not in itself unfit for human habitation is so situate that by reason of its proximity to or contact with any other buildings it causes one of the following effects, that is to say,— Power to local authority to purchase houses for opening alleys, &c.

(1) It stops ventilation, or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation; or

(2) It prevents proper measures from being carried into effect for remedying the evils complained of in respect of such other buildings,

in any such case, the officer of health shall make a report to the local authority in writing of the particulars relating to such first-mentioned building (in this Act referred to as "an obstructive building"), stating that in his opinion it is expedient that the obstructive building should be pulled down, and shall deliver the report to the clerk of the local authority.

The places to which the 30 & 31 Vict. c. 130, applies are the city of London and the metropolis and all boroughs and urban sanitary districts: 42 & 43 Vict. c. 64, s. 2.

The officer of health means in urban districts, the medical officer of health appointed by the urban sanitary authority: 42 & 43 Vict. c. 64, s. 3.

For the procedure when a case under this Act is of general importance to the metropolis, see 48 & 49 Vict. c. 72, s. 5, *post*.

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(2) The local authority shall refer such report to a surveyor or engineer to report thereon, and to report as to the cost of acquiring the lands on which such obstructive building is erected and of pulling down such building.

(3) The local authority shall take into consideration the reports of the officer of health and of the surveyor, and if they decide to adopt such reports shall cause copies to be given to the owner of the lands on which the obstructive building stands, with notice of the time and place appointed by the local authority for the consideration thereof; and such owner shall be at liberty to attend and state his objections, and after hearing such objections the local authority shall make an order in writing signed by their clerk either allowing the objections or directing that such obstructive building shall be pulled down, and such order shall be subject to appeal in like manner as an order of the local authority under the Artizans and Labourers Dwellings Act, 1868.

By 30 & 31 Vict. c. 130, s. 3, the term "owner" is to include (in addition to the definition given by the Lands Clauses Act, 8 Vict. c. 18, s. 3), "all lessees or mortgagees of any premises required to be dealt with under this Act, except persons holding or entitled to the rents and profits of such premises for a term of years, of which 21 years do not remain unexpired." In July 1886, the tenant of premises was possessed of them as assignee of a lease expiring at Michaelmas 1886, and was also the assignee of another lease of the same premises for 21 years, commencing on the expiration of the first lease. In the same month the vestry, in the exercise of their powers under the Act, caused copies of the reports of their officer of health and their surveyor, with a notice of the time and place appointed for their consideration, to be served upon the tenant, as being the "owner," under section 7 of the Act. In the following October an order was made by the vestry for the demolition of the premises. The work required was done by the tenant, who, upon its completion, applied to and obtained from the vestry a charging order upon the premises. It was held, that although the interest of the tenant in the new lease was in law only an *interesse termini*, he had such an interest in the premises at the time when the proceedings were initiated by service of the notices upon him, as to make him the "owner" within the meaning of this section. It was held, also, that the point of time to be looked at in order to determine the ownership for the purposes of the Act was the date of the service of the notices and not of the making of the order for demolition. *Reg.* v. *Marylebone* (*Vestry of*), 20 Q. B. D. 415; 57 L. J. M. C. 9; 58 L. T. (N.S.) 180; 36 W. R. 271; 52 J. P. 534.

The procedure on appeal is regulated by 31 & 32 Vict. c. 130, s. 9. The appeal lies to the quarter sessions, but either party may require the facts to be stated specially in a case for the opinion of the High Court.

(4) Where an order of the local authority for pulling down an obstructive building is made under this section and is not appealed against, or if appealed against is confirmed, the local authority shall be deemed to be authorised to purchase the lands on which the obstructive building is erected in like manner as if they had been authorised by a special Act to purchase the

same; and for the purpose of such purchase the provisions of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same with respect to the purchase and taking of lands otherwise than by agreement shall be deemed to be incorporated in this Act (subject nevertheless to the provisions of this Act), and for the purpose of those provisions this Act shall be deemed to be the special Act and the local authority to be the promoters of the undertaking, and such lands may be purchased at any time within one year after the date of the order, or if it was appealed against after the date of the confirmation. Section 8. 8 & 9 Vict. c. 18.

(5) The owner of the lands may, within one month after notice to purchase the same is served upon him, declare that he desires to retain the site of the obstructive building, and undertake either to pull down or to permit the local authority to pull down the obstructive building, and in such case the owner shall retain the site, and shall receive compensation from the local authority for the pulling down of the obstructive building.

(6) The amount of such compensation, and also the amount of any compensation to be paid on the purchase of any lands under this section, shall, in case of difference, be settled by arbitration in manner provided by section seven of the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879, as amended by this part of this Act.

The 42 & 43 Vict. c. 64, s. 7, as amended by this Act, provides as follows:—

In all cases in which the amount of any compensation is, in pursuance of this Act, to be settled by arbitration, the following provisions shall have effect; (namely),

(1) The amount of compensation shall be settled by an arbitrator to be appointed and removable by the Local Government Board;

(2) In settling the amount of any compensation—

(*a*) The estimate of the value of the premises shall be based on the fair market value as estimated at the time of the valuation being made of such premises, and of the several interests in such premises, due regard being had to the nature and then condition of the property, and the probable duration of the buildings in their existing state, and to the state of repair thereof, . . . and without any additional allowance in respect of compulsory purchase; and

(*b*) The arbitrator shall have regard to and make an allowance in respect of any increased value which, in his opinion, will be given to other premises of the same owner by the alteration or demolition by the local authority of the premises;

(3) On payment or tender to the person entitled to receive the same of the amount of compensation agreed or awarded to be paid in

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respect of the premises, or on payment thereof in manner prescribed by the Lands Clauses Consolidation Act, 1845, the owner shall, when required by the local authority, convey his interest in such premises to them, or as they may direct; and in default thereof, or if the owner fails to adduce a good title to such premises to the satisfaction of the local authority, it shall be lawful for the local authority, if they think fit, to execute a deed poll in such manner, and with such consequences, as are mentioned in the Lands Clauses Consolidation Act, 1845.

(4) Sections thirty-two, thirty-three, thirty-five, thirty-six, and thirty-seven of the Lands Clauses Consolidation Act, 1845, shall apply, with any necessary modifications, to an arbitration and to an arbitrator appointed under this Act.

(5) The arbitrator may, by one award, settle the amount or amounts of compensation payable in respect of all or any of the premises included in one or more order or orders made by the local authority;

(6) In the event of the death, resignation, or incapacity, refusal, or neglect to act of any arbitrator before he shall have made his award, the Local Government Board may appoint another arbitrator, to whom all documents relating to the matter of the arbitration which were in the possession of the former arbitrator shall be delivered;

(7) The arbitrator may, where he thinks fit, on the request of any party by whom any claim has been made before him, certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the local authority; and if within seven days after demand the amount so certified be not paid to the party entitled to receive the same, such amount shall be recoverable as a debt from the local authority with interest at the rate of five per centum per annum for any time during which the same remains unpaid after such seven days as aforesaid, but no such certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the local authority in respect of such claim before the appointment of the arbitrator;

(8) The award of an arbitrator shall be final and binding on all parties.

(7) Where the owner retains the site or any part thereof section twenty-three of the Artizans and Labourers Dwellings Act, 1868, shall apply to such site.

The 30 & 31 Vict. c. 130, s. 23, provides that, in the event of the owner desiring to retain the site of the premises required by the order to be totally demolished, no house or other building or erection shall be erected on all or any part of the site of the premises so taken down which shall be injurious to health; and the local authority may at any time make an order upon the owner to abate or alter the said house, building, or erection as the case may require, and in the event of non-compliance with such order the local authority may, at the expense of the owner thereof, abate or alter any house or other building or erection at any time wholly or partly erected contrary to the provisions of the section.

(8) Where the lands are purchased by the local authority the local authority shall pull down the obstructive building, or such part thereof as may be obstructive within the meaning of this section, and keep as an open space the whole site, or such part thereof as may be required to be kept open for the purpose of

Section 8.

remedying the evils caused by such obstructive building, and may, with the assent of the confirming authority and upon such terms as such authority thinks expedient, permit such portion of the site to be sold as is not required for the purpose of carrying this section into effect.

Where in the opinion of the arbitrator the demolition of an obstructive building adds to the value of such other buildings as are in that behalf mentioned in this section, the arbitrator shall apportion so much of the compensation to be paid for the demolition of the obstructive building as may be equal to the increase in value of the other buildings amongst such other buildings respectively, and the amount apportioned to each such other building in respect of its increase in value by reason of the demolition of such obstructive building shall be deemed to be private improvement expenses incurred by the local authority in respect of such building, and such local authority may, for the purpose of defraying such expenses, make and levy improvement rates on the occupier of such premises accordingly; and the provisions of the Public Health Act, 1875, relating to private improvement expenses and to private improvement rates shall, so far as circumstances admit, apply accordingly in the same manner as if such provisions were incorporated in this Act, and the said provisions shall be deemed to extend to the city of London and to the metropolis, and in the construction of the said provisions, as respects the city of London the Commissioners of Sewers, and as respects the metropolis the Metropolitan Board of Works, shall be deemed to be the urban authority. 38 & 39 Vict. c. 55.

If any dispute arises between the owner or occupier of any building (to which any amount may be apportioned in respect of private improvement expenses) and the arbitrator by whom such apportionment is made, such dispute shall be settled by two justices in manner provided by the Lands Clauses Consolidation Act, 1845, in cases where the compensation claimed in respect of lands does not exceed fifty pounds.

The local authority may also let the lands purchased by them. See 42 & 43 Vict. c. 64, s. 10.

Private improvement expenses are regulated by the Public Health Act, 1875, ss. 213—215. They are recovered by means of private improvement rates payable by the owner in the first instance, and deducted from the rent in certain proportions. They may also be redeemed.

The provisions of the Lands Clauses Act, 1845, above referred to, are contained in 8 Vict. c. 18, ss. 22, 24. The six months' limitation imposed by the 11 & 12 Vict. c. 43, s. 11, does not apply to justices acting under these sections: *Reg.* v. *Edwards*, 13 Q. B. D. 586; 53 L. J. M. C. 149; 51 L. T. (N.S.) 586.

Section 9.

Amendment of section 7 of 42 & 43 Vict. c. 64.

9. Section seven of the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879, shall be construed as if the words "and all circumstances affecting such value" were omitted therefrom.

This section, as amended, has been set out in the notes to section 8, subsect. (6), *ante*, p. 175.

Expenses of local authority.

10. The expenses of the local authority under this part of this Act shall be defrayed in like manner as expenses incurred in pursuance of the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879.

The expenses will therefore be defrayed out of the local rate, *i.e.*, in the city of London the consolidated rate; in the metropolis, a rate to be levied in the same manner as a rate leviable by law by the vestry or district board (25 & 26 Vict. c. 120, s. 5); and in urban districts, the general district fund.

Section 11 of this Act was repealed by 48 & 49 Vict. c. 72. It is replaced by section 5 of that Act, *post*.

SCHEDULE.

AMENDMENT OF SCHEDULE TO 38 & 39 VICT. C. 36.

(1) In lieu of articles eight to thirteen (both inclusive) of the Schedule to the Artizans and Labourers Dwellings Improvement Act, 1875, the following articles shall be substituted; that is to say,

Proceedings on Arbitration.

(*a*) Before any arbitrator enters upon any inquiry he shall, in the presence of a justice of the peace, make and subscribe the following declaration; that is to say,

"I, *A.B.*, do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Artizans and Labourers Dwellings Improvement Act, 1875.

"*A. B.*

"Made and subscribed in the presence of ."

And such declaration shall be annexed to the award when made; and if any arbitrator, having made such declaration, wilfully act contrary thereto, he shall be guilty of a misdemeanor.

"Eight to thirteen" should be "five to thirteen." See section 5, *ante*, p. 172.

(*b*) As soon as an arbitrator has been appointed as aforesaid, the confirming authority shall deliver to him the maps and

schedules deposited at their office, and the local authority shall publish once in each of three successive weeks the following particulars :— Schedule.

(1) The appointment of the arbitrator ; and

(2) The deposit at the office of the local authority of the copies of such maps and schedules as aforesaid, with a description of the situation of such office, and a statement of the time at which such copies may be inspected by any person desirous of inspecting the same.

(*c*) In every case in which compensation is payable under the Artizans and Labourers Dwellings Improvement Act, 1875, by the local authority to any claimant, and which compensation has not been made the subject of agreement (in this Act referred to as "a disputed case"), the arbitrator shall ascertain, in such manner as he thinks most convenient, the amount of compensation demanded by the claimant, and the amount which the local authority may be willing to pay ; and after hearing all such parties interested in each disputed case as may appear before him at a time and place of which notice has been given as in this Act mentioned, he shall proceed to decide on the amount of compensation to which he may consider the claimant to be entitled in each case.

In a case decided on the repealed schedule, the Metropolitan Board of Works served on the plaintiff, the lessee of property required for an improvement scheme, a notice for him to send in a statement as to the nature of his claim. This was done, but the arbitrator appointed under the Act, through some omission, did not include the plaintiff's interest in his provisional award. The plaintiff subsequently received a two days' notice to attend before the arbitrator that his claim might be considered. He attended accordingly, though under protest, and stated his claim, which was considered by the arbitrator, who altered his provisional award by inserting the amount of compensation awarded by him to the plaintiff in respect of his interest. This was confirmed by the final award. In an action to set aside the award it was held that, notwithstanding the omission of the plaintiff's interest from the provisional award, he was a "person interested" therein within the meaning of the corresponding clause in the schedule to the Act of 1875 (now repealed), that the proceedings of the arbitrator in considering his claim under that clause, and in altering his provisional award, were regular, and that the final award was good : *Carr* v. *Metropolitan Board of Works*, 14 Ch. D. 807 ; 49 L. J. Ch. 272 ; 42 L. T. (N.S.) 354.

(*d*) The arbitrator shall from time to time give notice to the claimants in disputed cases by causing such notice to be published or otherwise in such manner as he thinks advisable, of a time and place at which the difference between the claimants and the local authority in disputed cases as to the amount of compensation to be paid will be decided by the arbitrator.

(*e*) After the arbitrator has arrived at a decision on all the disputed cases brought before him he shall make an award under his hand and seal, and such award shall be final, and be binding and conclusive (subject to the provisions concerning an appeal hereinafter contained) upon all persons whomsoever and no such award shall be set aside for irregularity in matter of form.

Schedule.

(*f*) Such award as aforesaid shall be deposited at the office of the confirming authority, and a copy thereof shall be deposited at the office of the local authority, and the local authority shall thereupon publish once in each of three successive weeks notice of the deposit having been made at the office of the local authority of a copy of the award, and a further notice requiring all persons claiming to have any right to or interest in the lands (the compensation to be paid in respect of which is ascertained by such award) to deliver to the local authority on or before a day to be named in such notice (such day not being earlier than twenty-one days from the date of the last publication of the notice), a short statement in writing of the nature of such claim, and a short abstract of the title on which the same is founded; and such statement and abstract shall be paid for by the local authority. Such abstract of title, in the case of a person claiming a fee simple interest in the land, shall commence twenty years previous to the date of the claim, except there has been an absolute conveyance on sale within twenty years, and more than ten years, previous to the claim when the abstract shall commence with such conveyance.

(*g*) Any person or local authority dissatisfied with the amount of compensation awarded may, where such amount exceeds one thousand pounds, but not otherwise, appeal in manner provided by article twenty-six of the schedule to the Artizans and Labourers Dwellings Improvement Act, 1875, and that article shall be construed as if one thousand pounds were therein substituted for five hundred pounds.

Art. 26, above referred to, enables the party dissatisfied to submit the question of the proper amount of compensation to a jury.

(*h*) The costs, charges, and expenses payable by the local authority under article twenty-eight of the schedule to the Artizans and Labourers Dwellings Improvement Act, 1875, shall not be payable until the amount has been certified by the confirming authority.

These costs, &c., include the salary or remuneration, travelling, and other expenses of the arbitrator, and all costs, charges, and expenses (if any) which may be incurred by the confirming authority in carrying the provisions of the Act into execution.

(*i*) Notwithstanding anything contained in article twenty-nine of the said schedule, the arbitrator shall not be required to certify the amount of costs incurred by any party in relation to the arbitration in any case where he considers that such costs are not properly payable by the local authority.

Preamble.

THE DIVIDED PARISHES AND POOR LAW AMENDMENT ACT, 1882.

45 & 46 VICT. CHAP. 58.

An Act to amend the Divided Parishes and Poor Law Amendment Act, 1876; and for other purposes.

[18th August, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Divided Parishes and Poor Law Amendment Act, 1882, and shall be construed as one with the Divided Parishes and Poor Law Amendment Act, 1876, in this Act referred to as the principal Act, and the Acts amending the same.

39 & 40 Vict. c. 61.

Detached Parts of Parishes.

Detached parts of parishes to form parts of parishes surrounding them.

2. Where any part of a parish is isolated or detached from the other part or parts of the parish, and is wholly surrounded by another parish, such part shall, from and after the twenty-fifth day of March, one thousand eight hundred and eighty-three, be amalgamated with the last-mentioned parish in the same manner and with the same consequences and limitations in every respect, subject nevertheless as hereinafter mentioned, as if the amalgamation had been effected by an order of the Local Government Board under the principal Act, and such part shall be deemed to be within the same county as the parish with which it is amalgamated.

Provided as follows:

(1) If two or more isolated or detached parts of parishes adjoin each other, and such parts together are wholly surrounded by another parish, the same shall for the purposes of this Act be deemed one isolated or detached part.

(2) If any question should arise as to whether part of a parish is isolated or detached from the other part or parts of the parish, or is wholly surrounded by another parish, the Local Government Board may by order determine the question.

Section 2.

(3) This section shall not apply to any parish situate wholly or partly in the metropolis.

The provisions of 39 & 40 Vict. c. 61, relating to divided parishes, are set out in the notes to 42 & 43 Vict. c. 54, s. 4, *ante*, p. 52.

Provision for parishes not separately maintaining highways.

3. Where the parish with which any such isolated or detached part of a parish as aforesaid becomes amalgamated, under the provisions of this Act, is not a place separately maintaining its own highways, or entitled to return a separate waywarden to a highway board, the Local Government Board may deal with such parish for highway purposes by an order in like manner as they would have been enabled to deal with the same by a supplemental order under section seven of the Poor Law Act, 1879, if the amalgamation had been effected prior to the passing of that Act by an order under the principal Act.

42 & 43 Vict. c. 54.

See 42 & 43 Vict. c. 54, s. 7, and the notes thereto, *ante*, p. 54.

Detached parts with a population exceeding 300 may be made separate parishes.

4. If the population of any such isolated or detached part of a parish as aforesaid exceeds three hundred persons, one-tenth in number and rateable value of the persons appearing on the rate in force for the time being to be rated to the relief of the poor in respect of property within such part may apply to the Local Government Board, in writing, on or before the first day of December next, to have the same declared to be a separate parish, and the Board may by order either dismiss the application or constitute such part a separate parish from and after a day to be fixed by the order; and if an order is made dismissing the application, section two of this Act shall not take effect with respect to such part until such order is made.

An order constituting a parish under this section shall have the same consequences and may contain the same provisions as if the same were made under the principal Act, but section two of that Act shall not apply to such order.

For the effect of an order made under this section, see 39 & 40 Vict. c. 61, s. 4, *ante*, p. 52, and as to the provisions of the order, see section 6 of the same Act, *ante*, p. 53.

Provision as to school districts.

5. Notwithstanding anything contained in the principal Act, any alteration of an area made by or pursuant to this Act shall extend to alter the constitution of the school districts, unless the Education Department otherwise direct.

This section amends 39 & 40 Vict. c. 61, s. 4, *ante*, p. 52, which provided that nothing in that Act contained should apply to the constitution of school districts without the sanction of the Education Department.

Section 6.

Extension of 39 & 40 Vict. c. 61, s. 5.

6. Section five of the principal Act shall apply to any parish in a highway district, although it may not be a parish for which a waywarden can be elected.

See 39 & 40 Vict. c. 61, s. 5, *ante*, p. 52, and 42 & 43 Vict. c. 54, s. 7, *ante*, p. 54.

Interpretation of county.

7. For the purposes of the principal Act, and the Acts amending the same, a riding or other division of a county having a separate court of quarter sessions, or for which a separate county treasurer may be appointed, shall be deemed to be a separate county.

Poor Law Amendments.

Power to alter wards for election of guardians in certain cases. 35 & 36 Vict. c. 79. 38 & 39 Vict. c. 55.

8. Any wards already formed or hereafter to be formed by the Local Government Board under the Public Health Act, 1872, or the Public Health Act, 1875, for the election of guardians of the poor, and the number of guardians to be elected for such wards respectively, may be altered from time to time by that Board as they may think fit.

It was provided in the Public Health Act, 1872, 35 & 36 Vict. c. 79, s. 5, and it is now enacted by the Public Health Act, 1875, 38 & 39 Vict. c. 55, s. 9, that "where part of a parish belonging to a rural union forms, or is situated in, an urban sanitary district, the Local Government Board may, by order, divide such parish into separate wards and determine the number of guardians to be elected by such wards respectively in such manner as to provide for the due representation of the part of the parish lying within the rural sanitary district."

Adjustment of liabilities in asylum district. 30 & 31 Vict. c. 6.

9. Where the Local Government Board, by order, under section six of the Metropolitan Poor Act, 1867, have altered, or shall hereafter alter, any district formed under that Act, they may ascertain the proportionate value of the property and the amount of the obligations of every parish or union affected by the change, and may fix the amount to be received, or paid, or secured to be paid by every such parish or union.

The 30 & 31 Vict. c. 6, s. 6, provides that in order to the provision of asylums, the Poor Law Board may from time to time, by order, combine into districts, unions, or parishes, or unions and parishes, in the Metropolis, as they think fit, and may from time to time alter any such district by addition, sub-division, separation of part or otherwise (and in that Act the term "the district" means, in relation to each asylum, the district for which that asylum is for the time being provided).

Provision for separate rate.

10. If, for the purpose of giving effect to any adjustment which the Local Government Board are authorised or required to make under the Poor Law Amendment Act, 1834, or the Acts amending the same, it is necessary that a separate rate should

Section 10.

be levied on part of a parish only, the Board may in the order of adjustment direct such rate to be made, and the same shall be assessed, made, allowed, published, collected, and levied in the same manner and by the same persons as if it were a poor rate and extended to the whole parish.

The adjustment under 4 & 5 Will. 4, c. 76, referred to in the text, is that authorised by section 62 of that Act upon the dissolution or alteration of a union, and that authorised by 33 Vict. c. 2, upon the dissolution of districts or unions, or the annexation of parishes to unions.

Adjustment of liabilities not required in certain cases.

11. It shall not be incumbent on the Local Government Board to make an adjustment under the Poor Law Amendment Act, 1834, or the Acts amending the same, in any case where the circumstances appear to them to render such adjustment inexpedient or unnecessary.

See the note to the preceding section.

Mode of consent by guardians and managers.

12. Where, under the Poor Law Amendment Act, 1834, or any of the Acts amending the same, the consent in writing of a majority of the guardians of a union or the managers of a school district is required it shall be deemed a sufficient compliance with such requirement if a resolution giving consent is passed at a meeting of the guardians or managers, of which meeting, and of the business to be transacted thereat, not less than fourteen days notice shall be given to each guardian or manager.

The 4 & 5 Will. 4, c. 76, s. 32, provided that no dissolution, alteration, or addition shall be made of or to a union unless a majority of not less than two-thirds of the guardians of such union shall also concur therein. But by 32 & 33 Vict. c. 63, s. 1, the Local Government Board may dissolve any asylum or school district in the Metropolis, and upon such dissolution shall adjust the rights and liabilities of parishes and unions comprised therein respectively in like manner as when a union is dissolved under 4 & 5 Will. 4, c. 76, s. 32, and so much of that section as required the concurrence of two-thirds of the guardians in the dissolution of any union is thereby repealed.

The provision in the text appears to supersede 31 & 32 Vict. c. 122, s. 10, which provided for the mode of consent by guardians for the formation of a school district.

Extension of 25 & 26 Vict c. 43, s. 1.

13. The guardians of any union who send any pauper child to a school certified under the Act of the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter forty-three, may pay the reasonable expenses incurred in the maintenance, clothing, and education of such child whilst in such school to an amount not exceeding such rate of payment as may be sanctioned by the Local Government Board for pauper

children sent to such school, anything contained in the said Act to the contrary notwithstanding. Section 13.

The 25 & 26 Vict. enables guardians to send children to schools certified under the Act (including institutions established for the instruction of blind, deaf, dumb, lame, deformed, or idiotic persons), and to pay the expenses incurred in the maintenance, clothing, and education of such children. The section contained a limit of the amount which might be so paid for each child, viz., the sum which would have been charged for its maintenance during the same period. This limit is now removed as provided by the text.

14. The following enactments are hereby repealed, viz.:— Repeal of 20 Vict. c. 19, s. 2, and 4 & 5 Will. 4, c. 76, s. 18.

(1) Section two of the Act of the twentieth year of the reign of Her present Majesty, chapter nineteen, relating to the appointment of overseers for extra-parochial places in certain cases;

(2) So much of section eighteen of the Poor Law Amendment Act, 1834, as requires copies of the orders of the Poor Law Commissioners to be sealed or stamped with their seal; and

(3) So much of section six of the Union and Parish Property Act, 1835, and of the schedule to that Act, and so much of section six of the Parish Property and Parish Debts Act, 1842, as relate to the transmission to the Poor Law Commissioners, and the approval, sealing, and registration by such Commissioners of deeds or other instruments, except as regards deeds or instruments executed prior to the date of this Act; and nothing in the said Acts, or in the Poor Law Amendment Act, 1834, or in the Union Loans Act, 1869, or the Acts amending or extending those Acts respectively, shall be deemed to require the approval or registration by the Local Government Board of any such deed or instrument as aforesaid, or of any lease or agreement for lease made or entered into under the authority of those Acts or any of them. 5 & 6 Will. 4, c. 69. 5 & 6 Vict. c. 18. 4 & 5 Will. 4, c. 76. 32 & 33 Vict. c. 45.

Provided that the guardians or managers, as the case may be, shall keep a register of the securities in respect of all sums borrowed by them, in such form and subject to such regulations as to inspection or otherwise as the Local Government Board may from time to time prescribe.

The Local Government Board have by General Order, dated 7th December, 1882, prescribed the form, &c., of the register of securities required to be kept by virtue of the above provision.

Section 20.

THE MARRIED WOMEN'S PROPERTY ACT, 1882.

45 & 46 VICT. CHAP. 75.

An Act to consolidate and amend the Acts relating to the Property of Married Women. [18th August, 1882.]

* * * * *

Married woman to be liable to the parish for the maintenance of her husband.

20. Where in England the husband of any woman having separate property becomes chargeable to any union or parish, the justices having jurisdiction in such union or parish may, in petty sessions assembled, upon application of the guardians of the poor, issue a summons against the wife, and make and enforce such order against her for the maintenance of her husband out of such separate property as by the thirty-third section of the Poor Law Amendment Act, 1868, they may now make and enforce against a husband for the maintenance of his wife if she becomes chargeable to any union or parish. Where in Ireland relief is given under the provisions of the Acts relating to the relief of the destitute poor to the husband of any woman having separate property, the cost price of such relief is hereby declared to be a loan from the guardians of the union in which the same shall be given, and shall be recoverable from such woman as if she were a feme sole by the same actions and proceedings as money lent.

31 & 32 Vict. c. 122.

The 31 & 32 Vict. c. 122, s. 33, provides that "when a married woman requires relief without her husband, the guardians of the union or parish, or the overseers of the parish, as the case may be, to which she becomes chargeable, may apply to the justices having jurisdiction in such union or parish in petty sessions assembled, and thereupon such justices may summon such husband to appear before them to show cause why an order should not be made upon him to maintain his wife; and upon his appearance, or, in the event of his not appearing, upon proof of due service of such summons upon him, such justices may, after hearing such wife upon oath, or receiving such other evidence as they may deem sufficient, make an order upon him to pay such sum, weekly or otherwise, towards the cost of the relief of the wife, as, after consideration of all the circumstances of the case, shall appear to them to be proper, and shall determine in such order how and to whom the payments shall from time to time be made; which order shall, if the payments required by it to be made be in arrear, be enforced in the manner prescribed by the Act of the eleventh and twelfth Victoria, chapter forty-three, for the enforcing of orders of justices requiring the payment of a sum of money: Provided that such order may be at any future time revoked by the justices in petty sessions assembled, if they see sufficient cause for so doing." The cases decided with reference to this section have already been set out, *ante*, p. 99.

Married woman to be liable to the parish for

21. A married woman having separate property shall be subject to all such liability for the maintenance of her children and grandchildren as the husband is now by law subject to

for the maintenance of her children and grandchildren: Provided always, that nothing in this Act shall relieve her husband from any liability imposed upon him by law to maintain her children or grandchildren. Section 21. the maintenance of her children.

* * * * *

It was held with reference to section 14 of the Married Women's Property Act, 1870, that a married woman was not liable for the support of her grandchildren though she had separate estate: *Coleman* v. *Birmingham* (*Overseers of*), 6 Q. B. D. 615; 50 L. J. M. C. 92; 44 L. T. (N.S.) 578; 29 W. R. 715; 45 J. P. 521.

No doubt the above section was intended to render a married woman liable for the maintenance of her grandchildren, but it is submitted that it does not have this effect, seeing that it only makes her liable to the same extent as the husband is, for the maintenance of her grandchildren, and a husband is under no liability to maintain a second wife's grandchildren.

27. This Act may be cited as the Married Women's Property Act, 1882. Short title.

THE ALLOTMENTS EXTENSION ACT, 1882.

45 & 46 VICT. CHAP. 80.

An Act for the Extension of Allotments.

[18th August, 1882.]

WHEREAS by an Act 2 William IV., cap. 42, the trustees of lands allotted under inclosure Acts or otherwise appropriated for the benefit of the poor of any parish, together with the churchwardens and overseers of the poor in parish vestry assembled, are required to let portions of such lands in quantities of not more than one statute acre to any one individual, according to their discretion, as a yearly occupation from Michaelmas to Michaelmas, and at such rent as land of the same quality is usually let for in the said parish, to industrious cottagers of good character, being day labourers or journeymen legally settled in the said parish, or dwelling within or near its bounds:

And whereas the provisions of the said Act, from its limited application and other causes, have been only partially carried out:

And whereas it is expedient that having regard to the present Poor Law, the benefit thereof should be extended to all the irremovable poor, and that the same should be extended to all lands, whether cultivated or uncultivated, held for the benefit of

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the poor as hereinafter described, and that a summary remedy should be afforded:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Interpretation.

36 & 37 Vict. c. 19.

1. In this Act "trustees" shall mean trustees, feoffees, and managers, whether corporate or sole, or a committee of the same in such cases as are provided for in the Poor Allotments Management Act, 1873.

The 36 & 37 Vict. c. 19, s. 3, provides that a committee of not more than 12, nor less than six members of their own body shall be appointed annually by the following bodies:—(1) By the allotment trustees, or a majority of votes of the allotment trustees present and voting at a meeting summoned as in the Act mentioned when the number of allotment trustees for the time being exceeds 20: (2) By the vestry of any parish empowered to make an order in respect of poor allotments in pursuance of 2 Will. c. 42, where the number of persons for the time being entitled to attend such vestry exceeds 20. By section 4 the committee thus appointed are to exercise all the powers of the trustees or vestry. By section 5 the appointment of a committee is to be made annually in August.

Short title.

2. This Act may be cited as the Allotments Extension Act, 1882.

Extent of Act.

3. This Act shall not apply to Scotland or Ireland.

Trustees of lands vested for benefit of the poor to give notice as to letting.

4. All trustees in whom lands are vested or by whom the same are held or managed for the benefit of the poor of any parish or place in or adjoining to that in which such lands are situate, and whereof the rents or produce are distributed in gifts of money, doles, fuel, clothing, bread, or other articles of sustenance or necessity, shall, where such lands are not otherwise used for the benefit of the parish in which it is situate as a recreation ground, or otherwise for the enjoyment or general benefit of the inhabitants, take proceedings, subject as hereinafter mentioned, for letting such lands in allotments to cottagers, labourers, and others, and—

(1) They shall set apart for the purpose of this Act such field or other portion of the said lands as is most suitable, as regards distance and otherwise, for allotments, and give public notice, in manner directed by the schedule to this Act, of the field or portion so set apart, specifying the situation and extent thereof, and the rent per acre or rod which they are ready to accept for the same when let in allotments, and the times and places at which applications for allotments are to be made:

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(2) If any applications for an allotment are received within the time fixed by the notice the trustees shall forthwith proceed to obtain possession of the field or portion set apart, or of so much thereof as is required for the applications, and to fence the same (if necessary) and to let the same in manner provided by this Act:

(3) If the whole of the field or portion so set apart is let in allotments the trustees shall proceed as soon as they have power so to do to set apart another field or portion of their lands for the purpose of this Act, and give public notice thereof as directed by this section, and so on until the whole of their lands are let in allotments, or no applications are received for further allotments:

Provided that—

(*a*) If application is made within the time aforesaid for part only of the field or portion so set apart, the remainder thereof may be let as provided by this Act in the case of unlet allotments; and

(*b*) It shall not be necessary for the trustees to set apart any portion of any such lands as aforesaid, the separation of which from the remainder of such lands not set apart for the time being may make it impossible to let such remainder without substantial loss to the charity, when the whole of such lands cannot conveniently be set apart for allotments; and they shall have the same powers of letting any remainder of such lands, not set apart for the time being, as if this Act had not passed; and

(*c*) If no application is made within the time aforesaid for any part of the field or portion so set apart, the like public notice as is required in the first instance shall be given by the trustees once in every succeeding year; and

(*d*) Where the said lands are at any time held on lease, the trustees shall proceed to act in pursuance of this Act upon the expiration of such lease, and this Act shall apply as if such expiration were the passing of this Act.

The Allotments Act, 1887, s. 13, sub-sect. (2), *post*, provides that all trustees within the meaning of 45 & 46 Vict. c. 80, required or authorised by that or any other Act to let lands in allotments to cottagers, labourers, journeymen, or others in any place may, if they think fit, in lieu of letting such land in manner provided by the said Acts, sell or let such land to the

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sanitary authority of the district in which such place is wholly or partly situate, upon such terms as may be agreed upon, with the sanction, as regards the said trustees, of the Charity Commissioners for England and Wales. It has been held that this Act does not take away from the Commissioners the powers of authorising a sale of charity lands, vested in them under the Charitable Trusts Acts: *Parish of Sutton* v. *Church*, 26 Ch. D. 173; 53 L. J. Ch. 599; 50 L. T. (N.S.) 387; 32 W. R. 485.

Power to let lands inconveniently situated.

5. If any of the said lands shall be found to lie at an inconvenient distance from the residences of any cottagers or labourers it shall be lawful for the trustees to let such lands, or any part thereof, for the best rent that can be procured for the same, and to hire in lieu thereof, for the purposes of this Act, other land more favourably situated for allotments to the poor of the parish or place for whose benefit such lands are held in trust.

Saving old rights.

6. Neither this Act nor section twelve of the Poor Allotments Management Act, 1873, shall extend or be applicable to any lands with regard to which the provisions of the second William the Fourth, chapter forty-two, have been put into operation; but all industrious cottagers of good character, being day labourers or journeymen, whether legally settled in any parish in which the said Act of second William the Fourth, chapter forty-two, has been put into operation, or dwelling within its bounds or those of the adjoining parishes, or being poor persons in any such parishes, shall at all times be entitled to and enjoy the benefits, rights, and privileges created and conferred by the second William the Fourth, chapter forty-two, in as full and ample a manner as they would have been entitled to and have enjoyed the same if they had been legally settled in the parish and this Act and section twelve of the Poor Allotments Management Act, 1873, had not been passed.

The 36 & 37 Vict. c. 19, s. 12, provides that notwithstanding anything in the 2 Will. 4, c. 42, contained, it shall be lawful for the authority executing the powers thereof, or of that Act, to require the rent for any land let under it to be paid for the whole year in advance. This provision is practically repealed by the text except as regards any new allotments to be made under the 2 Will. 4, c. 42.

Preference to cottagers living in parishes where the lands are situate.

7. The provisions of this Act shall apply to lands held for the benefit of the poor of any parish or place situated in or adjoining to the same parish in which such poor dwell; but where the said lands are situated in or adjoining to several parishes, preference shall be given to the cottagers and labourers being inhabitants of the parish or place for the benefit of the poor of which lands are so held.

Where lands are held

8. Where any lands shall be held as aforesaid, partly for the

benefit of the poor, and partly for other objects, the provisions of the Act shall apply to such a proportion of the entire quantity of the said lands as the amount of the gross income applicable to the poor shall bear to the entire gross income thereof; and in case of difference as to the amount of such gross income, or as to the said proportion, the difference shall be referred to the Charity Commissioners for England and Wales, in this Act referred to as the Charity Commissioners, whose decision shall be final.

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partly for benefit of poor.

9. The trustees or the majority of them may from time to time make and, when made, revoke and vary such rules as may be necessary for the appointment and powers of local managers of allotments under this Act, whether as tenants or agents of the trustees or otherwise, and for preventing the same being built upon or sublet, and preventing any undue preference in such letting, and all other necessary rules, and for giving effect to the provisions of the Act; and such rules as are for the time being in force under this section shall be binding on all persons and corporations whatsoever.

Charity Commissioners to settle rules in certain cases.

Provided that—

(*a*) A copy of all rules made under this section shall be sent to the Charity Commissioners as soon as may be after they are made, and the Charity Commissioners may, if they think fit, by order disallow any rules made under this section, and upon such disallowance the same shall be void:

(*b*) Such public notice as is provided by the schedule to this Act shall be given of all rules in force under this section, and a copy thereof shall be at all times given gratis to any cottager or labourer demanding the same:

(*c*) Any four cottagers or labourers, or any of the trustees, if aggrieved by any such rules, whether in respect of anything contained therein, or of any omission therefrom, or if aggrieved by the want of any rules, may complain to the Charity Commissioners, and the Charity Commissioners, if they think such complaint is well grounded, may make such order as appears to them necessary to remedy the complaint. Any such order may rescind or alter any such rules, and may make any rules for the purposes of this section, and such rules shall be duly observed by all persons and corporations whatsoever.

Section 10.

In case of neglect of trustees to publish notice.

10. If the trustees of any such lands shall omit, neglect, or refuse to give such public notice or to proceed for such setting apart of land as is required by this Act, or otherwise to comply with the provisions of this Act, any of the said cottagers or labourers, not being less than four, who would be entitled to rent any allotment out of the said lands under the provisions of this Act if the same had been duly observed shall be entitled, after due notice to such trustees requiring them to remedy the omission, neglect, or refusal specified in the notice, to apply to the Charity Commissioners, and the said Commissioners shall inquire into the complaint, and, if satisfied that such omission, neglect, or refusal exists, and requires to be remedied, may issue their order for remedying, in manner specified therein, such omission, neglect, or refusal and such order may be enforced in like manner as an order made by the Commissioners under the Charitable Trusts Acts.

An order under the Charitable Trusts Acts is enforced by attachment; see 16 & 17 Vict. c. 137, s. 14; 18 & 19 Vict. c. 124, s. 9.

Certificate of Charity Commissioners sufficient defence for trustees.

11. If in the opinion of the trustees such lands as aforesaid shall, either on the ground of distance or on any other ground, be so unsuitable for allotments that no part thereof can be usefully set apart for the purposes of this Act, they shall be at liberty to apply to the Charity Commissioners for a certificate to that effect; and if such certificate be granted they shall not be bound to set apart under this Act any part of the lands to which the same shall apply; and they shall annually give public notice of such certificate so long as the same shall remain in force in the manner directed by the schedule to this Act. Provided always, that it shall be lawful for the said Commissioners at any time, for any cause shown to their satisfaction by any person entitled to make an application to them under this Act, to revoke such certificate: Provided also that every certificate given by the Charity Commissioners under this section, unless and until revoked by them, shall be final and conclusive.

Arrears of rent, and in case of refusal of tenant to quit. 8 & 9 Vict. c. 118.

12. Any rent for any allotment let in pursuance of this Act, and the possession of such allotment in the case of any notice to quit, or other failure to deliver up possession of the same as required by law, may be recovered in all respects as if the same were an allotment under the Inclosure Act, 1845, and the Acts amending the same, and sections one hundred and ten and one hundred and eleven of the Inclosure Act, 1845, shall apply as if

they were herein enacted, and as if the trustees, or in the case of the appointment of local managers, such managers, were the allotment wardens within the meaning of the said section. Section 12.

The 8 & 9 Vict. c. 118, s. 110, provides that if the rent be in arrear for 40 days, or if at any time during the tenancy, being not less than three months after the commencement thereof, it shall appear that the occupier has not duly observed the terms and conditions of his tenancy, or shall have gone to reside more than a mile out of the parish, notice may be given determining the tenancy, but in such case compensation must be given to the occupier for growing crops and manure. By section 111 possession may be recovered by warrant of justices under 1 & 2 Vict. c. 74.

13. With respect to the letting of allotments in any field or portion of land set apart for the purposes of this Act the following provisions shall have effect: Letting of allotments.

(1) Public notice of the intention to let the same shall be given in manner directed in the schedule to this Act:

(2) Every allotment shall be let free of all charges (that is to say), tithe, tithe rentcharge, rates, taxes, and outgoings whatsoever, and shall be let at such rent as land of the same quality is usually let for in the same parish, with such addition as is necessary to satisfy the said charges; and in this section the expression "outgoings" includes the expense of getting possession, and allotting, dividing, and fencing the field or portion of land set apart, and collecting the rents, and any sum payable for such draining of the allotments and means of approach to the allotments as may be necessary:

(3) The trustees shall, for the purposes of all rates, taxes, tithes, and tithe rentcharge, be deemed to be the occupiers of the allotments:

(4) One person shall not hold any allotment or allotments exceeding one acre:

(5) No building whatever shall be erected for or used as a dwelling or workshop on any part of any allotment, and if any building is so erected or used the trustees shall forthwith pull down the same and sell and dispose of the materials thereof, and the proceeds of the sale shall be applicable in like manner as the rent of the allotment:

(6) If at any time the trustees are unable to let any allotment or any portion thereof, they may let the same, or such portion thereof as may be unlet, to any person whatever at the best annual rent which can be obtained

Section 13.

for the same, without any premium or fine, and on such terms as may enable them to resume possession thereof within a period not exceeding twelve months if it should at any time be required to be let for allotments; but such letting shall not be deemed to exonerate the trustees from giving public notice under the foregoing provisions of this section.

Provision for allotments in scheme of Charity Commissioners.

14. Where a scheme is made by the Charity Commissioners after the passing of this Act in relation to any charity, and part of the endowment of such charity consists of land other than buildings and the appurtenances of buildings, the Charity Commissioners shall insert in such scheme a provision authorising the trustees of the charity to set apart portions of the said lands for allotments, and the same may be set apart and let as allotments in like manner as is directed by this Act.

Act not to impair powers conferred by Endowed Schools Acts.

15. Nothing in this Act contained shall be taken to impair or alter any powers conferred on the trustees of any charities or the Charity Commissioners by the Endowed Schools Acts or the Acts amending the same.

SCHEDULE.

Regulations as to Public Notices and Lettings.

1. Public notice, for the purposes of this Act, shall be given by fixing the notice on the doors of the church of the parish in which the land referred to in the notice is situate, and if there is no church, then on some public building or conspicuous place therein.

2. Public notice of the setting apart under this Act of a field or portion of land shall be given in the month of February, or such other month as the trustees may fix, and the first notice shall be given in the said month next after the passing of this Act, and if not so given shall be given as soon as may be afterwards, at such time as may be fixed by the trustees, or, in case of their default, by the county court judge for the district in which the land is situate, or by the Charity Commissioners.

Letting.

3. The public notice of the intention to let an allotment out of land when set apart shall specify the amount of land to be let, and the rent per acre or rod to be paid, and the place and time at which applications are to be made, and shall be given annually in the month of June, or in such other month as may be fixed by, or in pursuance of, rules under this Act: Provided that in any year in which there will be no allotment vacant out of land already set apart, it shall not be necessary to give such notice.

The public notice here referred to is that required by section 13, *ante*, p. 193.
Rules under the Act are made by virtue of section 9.

4. The first public notice of the intention to let an allotment shall be given in the month of June next after the trustees obtain possession of the allotment, or at such other time, not more than one month later, as may be fixed by or in pursuance of rules under this Act; and, if not so given, shall be given at such time as may be fixed by the county court judge for the district in which the land is situate, or by the Charity Commissioners.

Quære, are the trustees bound to keep the land in hand until the following June? Probably they might treat this provision as merely directory.
The mode of giving public notice is prescribed by Rule 1 of this schedule.

5. The time for applications for allotments out of land when already set apart shall be the month of August, or such other month as may be fixed by or in pursuance of rules under this Act.

As to the setting apart of land see section 4, *ante*, p. 188.
As to the rules see section 9, *ante*, p. 191.

Schedule.

6. The allotments shall be let to persons in the order in which they apply, or in accordance with such other order as may be provided by rules under this Act, so that there shall be no undue preference shown as regards the persons to whom they are let.

The rules may be so framed as to provide for deciding questions of preference. And see section 7 which gives a preference to cottagers and labourers being inhabitants of the parish or place for the benefit of the poor of which lands are held.

7. Each allotment shall be let on a yearly tenancy beginning at Michaelmas day, or at such other day as may be fixed by or in pursuance of rules under this Act.

Section 1.

THE ARMY (ANNUAL) ACT, 1883.

46 VICT. CHAP. 6.

An Act to provide, during twelve months, for the Discipline and Regulation of the Army. [26th April, 1883.]

* * * * *

1. This Act may be cited as the Army (Annual) Act, 1883. Short title.

* * * * *

Amendments of Army Act, 1881.

* * * * *

7. Whereas under section one hundred and forty-five of the Army Act, 1881, it is provided that in the case either (*a*) of an order or decree made for payment by a soldier either of the cost of the maintenance of his wife or child, or of any bastard child, or of the cost of any relief given to his wife or child, by way of loan, being sent to a Secretary of State, or (*b*) of it appearing to the satisfaction of a Secretary of State that a soldier has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age, the Secretary of State may order a sum therein mentioned to be deducted from the daily pay of such soldier, and to be appropriated in the first case in liquidation of the sum adjudged to be paid by such order or decree, and in the second case towards the maintenance of such wife or children: Amendment of s. 145 (2) of 44 & 45 Vict. c. 58, as regards the liability of a soldier to maintain his wife and children.

And whereas it is expedient to make it obligatory on the Secretary of State to make the order in such cases: Be it therefore enacted as follows:—

In section one hundred and forty-five of the Army Act, 1881, the words "Secretary of State shall order" shall be substituted for the words "Secretary of State may order" in the second sub-section.

This amendment of 44 & 45 Vict. c. 58, s. 145, has been noted under that section, *ante*. p. 98.

* * * * *

11. In all copies of the Army Act, 1881, which may be printed after the commencement of this Act the words by this Act directed to be substituted for other words shall be printed therein in lieu of the latter words, and the words directed by this Act to be added shall be added thereto, and the words directed by this Act to be omitted shall be omitted therefrom. Printing of amendments.

Preamble.

THE POOR LAW CONFERENCES ACT, 1883.

46 VICT. CHAP. 11.

An Act to provide for Expenses incurred by Guardians of the Poor in relation to Poor Law Conferences.

[18th June, 1883.]

WHEREAS doubts have arisen as to the power of guardians of the poor to charge the rates with the payment of expenses incurred in attending conferences for the discussion of matters connected with the duties which devolve on them, and in purchasing reports of such conferences:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Poor Law Conferences Act, 1883.

Conference expenses.

2. The guardians of any union may, when empowered by and subject to any regulations made by the Local Government Board (which regulations the said Board is hereby authorised from time to time to make, vary, or rescind), pay the reasonable expenses of any guardian or guardians, or clerk to the guardians, incurred in attending any conference of guardians held for the purpose of discussing any matter which is connected with the duties which devolve on them, and any reasonable expenses incurred in purchasing reports of the proceedings of any such conference, and may charge the amount to their common fund, or, if they have no common fund, to the fund under their control.

The Local Government Board have by general order dated 17th September, 1883, empowered the guardians of the several unions in England and Wales to pay the reasonable expenses of attending poor law conferences, and in purchasing reports of the proceedings, subject to certain regulations, for which the reader is referred to the order.

A similar provision is contained in 48 Vict. c. 22, *post*, with reference to the expenses of local authorities in attending local government conferences.

Interpretation.

3. Expressions used in this Act have the same respective meanings as they have in the Poor Law Act, 1879.

Preamble.

THE DISEASES PREVENTION (METROPOLIS) ACT, 1883.

46 & 47 VICT. CHAP. 35.

An Act to make better provision as regards the Metropolis for the isolation and treatment of persons suffering from Cholera and other Infectious diseases; and for other purposes.

[20th August, 1883.]

WHEREAS it is expedient that further powers be conferred on certain local authorities in the metropolis for the provision of hospital accommodation, and the isolation and treatment in suitable hospitals of persons suffering from cholera and other infectious diseases; and that better provision be made respecting the powers of the port sanitary authority of the port of London, and other matters:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Diseases Prevention (Metropolis) Act, 1883.

Managers of Metropolitan Asylum District to be local authority for certain purposes of Diseases Prevention Act. 18 & 19 Vict. c. 116.

2. The managers of the Metropolitan Asylum District (in this Act referred to as "the managers") shall be within that district a local authority under the Diseases Prevention Act, 1855, for such purposes of the said Act, and with such powers and duties as may from time to time be specified by regulations of the Local Government Board.

Subject to such regulations the managers may from time to time utilise any of their buildings, ambulances, and other property, and their staff, for the execution of any powers or duties conferred or imposed on them under the said Act and this Act.

Under 30 Vict. c. 6, and various amending Acts, asylums for the reception and relief of the sick, insane or infirm, or other class or classes of the poor chargeable in unions and parishes in the metropolis are provided. For the purposes of this provision the metropolis is divided into districts governed by managers partly elected by the poor law guardians and partly nominated by the Local Government Board from among the justices of the peace or ratepayers.

The Diseases Prevention Act, 1855, 18 & 19 Vict. c. 116, is now repealed, except as to the metropolis. It provides that when there is danger of an outbreak of any formidable epidemic, endemic or contagious disease, the Local Government Board may by order direct that the Act shall be in force, and may at any time revoke or renew such order. Thereupon the board may issue directions and regulations for the speedy interment of the

Section 2.

NOTE.

dead, for house to house visitation, for the dispensing of medicines, guarding against the spread of disease, and affording to persons afflicted by, or threatened with, such epidemic, &c., such medical aid and accommodation as may be required. The local authority must superintend and see to the execution of such directions and regulations, and appoint and pay medical officers, prosecute for violation of such directions and regulations, &c.

The managers of an asylum district are by the text made local authority for the purposes of the Act within their district.

Power of managers to contract for reception of cholera patients.

3. Any authority or body of persons having the management and control of any hospital, infirmary, asylum, or workhouse may from time to time let the same or any part thereof to the managers; or may enter into and carry into effect contracts with the managers for the reception, treatment, and maintenance therein of persons suffering from cholera within the district of the managers.

Provided that the power conferred by this section shall not, without the consent of the Local Government Board, be exercised with respect to any asylum under the Metropolitan Poor Act, 1867, or any workhouse.

Expenses of managers and other local authorities.

30 Vict. c. 6.

4. All expenses incurred by the managers in the execution of any powers and duties conferred or imposed on them under the Diseases Prevention Act, 1855, and this Act, shall be defrayed in the same manner as the expenses mentioned in section thirty-one of the Metropolitan Poor Act, 1867, are to be defrayed under that section; and shall be raised and be recoverable in the same manner as expenses under the last-mentioned Act.

The amount expended by any local authority in the metropolis under the Diseases Prevention Act, 1855, other than the managers, in providing any building for the reception of patients or other persons under that Act, shall, to such extent as may be determined by the Local Government Board, together with two-thirds of the salaries or remuneration of any officers or servants employed in any such building under that Act, be repaid to them from the Metropolitan Common Poor Fund by the receiver of that fund, out of any moneys for the time being in his hands, upon the precept of the said Board, to be issued by them after the production of such evidence in support of the expenditure as they may deem satisfactory, and the Board may require contributions for the purpose of raising the sums so repayable.

The 30 Vict. c. 6, s. 31, provides that expenses shall be defrayed out of contributions from the unions and parishes forming the district in proportion to rateable value (section 55).

The local authorities other than the managers are the vestries and district boards: 23 & 24 Vict. c. 77, s. 10. See section 9 of this Act, *infra*.

The Metropolitan Common Poor Fund was established by 30 Vict. c. 6, ss. 61—72.

Section 5.

Power of vestries and district boards to borrow for hospitals. 18 & 19 Vict. c. 120.

5. The provision of hospital accommodation under the Sanitary Act, 1866, shall be deemed to be a purpose for which vestries and district boards in the metropolis are authorised to borrow under the Metropolis Management Act, 1855, and sections one hundred and eighty-three to one hundred and ninety-one (both included) of that Act shall apply and have effect accordingly.

The Sanitary Act, 1866, 29 & 30 Vict. c. 90, is now in force only in the metropolis. Section 37 of that Act enables a vestry or district board to build or contract for the use of hospitals or places for the reception of the sick.

The 18 & 19 Vict. c. 120, ss. 183—191, contain general provisions enabling vestries and district boards to borrow money. See Woolrych's "Metropolis Management Acts," p. 117.

Managers to provide places for embarkation, &c., of patients.

6. Whereas it is necessary, in order to facilitate the conveyance by water to hospital ships and hospitals on or near the Thames of persons suffering from infectious disease, that the managers should provide wharves or landing places for that purpose: Be it therefore enacted that it shall be the duty of the managers and they are hereby required to provide on the banks of the said river wharves or landing places, not exceeding three in number, within the metropolis, and one wharf or landing place beyond the metropolis, with convenient approaches thereto respectively, for the embarkation and landing of persons removed to or from any hospital ship or hospital belonging to the managers, and for any other purpose in relation thereto. The provision of such wharves or landing places and approaches shall be deemed to be a purpose of the Metropolitan Poor Act, 1867, and so much of the Lands Clauses Acts as relates to the purchase of lands otherwise than by agreement may be put in force for such purpose in the manner provided by section fifty-three of that Act, but not without such advertisements and notices as are mentioned in section fifty-four of the same Act; and when such wharves or landing places and approaches have been provided on sites approved by order of the Local Government Board, the same shall be deemed to be expressly authorised by this Act.

The reference in the text is to 30 Vict. c. 6, ss. 52—54. Section 52 incorporates the Lands Clauses Acts, and "for the purposes of this Act" the managers are to be deemed the promoters. Section 53 provides that the compulsory clauses shall not be put in force except for certain purposes, and then only by a previous order of the Local Government Board. Section 54 provides that before such order is made by the Local Government Board the managers must publish at least once in each of four consecutive weeks in a daily morning newspaper, an advertisement, stating the object for which the lands are proposed to be taken, the quantity of lands required, and the place where a plan of the land is open to inspection; the managers must also serve notices on the owners and occupiers stating the particulars, and that the managers are willing to treat for purchase.

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Admission into hospital not parochial relief so as to disqualify.

7. The admission of a person suffering from infectious disease into any hospital or hospital ship provided by the managers, or the maintenance of any such person therein, shall not be considered to be parochial relief, alms, or charitable allowance to any person, or to the parent of any person, and no such person or his parent shall by reason thereof be deprived of any right or privilege, or be subject to any disability or disqualification.

Port sanitary authority of port of London.

8. The Local Government Board shall be deemed to have been empowered to assign to the port sanitary authority of the port of London for the whole of the said port the powers rights duties capacities liabilities and obligations which they have assigned to them; and the said Board may, from time to time, assign to the said port sanitary authority for the whole of the said port any powers rights duties capacities liabilities and obligations of an urban sanitary authority under the Public Health Act, 1875, with such modifications and additions (if any) as may appear to the Board to be required.

The said port sanitary authority may acquire and hold land for the purposes of their constitution without any license in mortmain.

The mayor, aldermen, and commons of the city of London are the port sanitary authority of the port of London: 38 & 39 Vict. c. 55, s. 291.

Saving for duties, &c., of local authorities.

9. Nothing in this Act shall be deemed or construed to exempt any local authority in the metropolis from the performance of any duties or liabilities assigned to them by regulations of the Local Government Board under the Diseases Prevention Act, 1855.

See the note to section 4, *supra*.

Power of Local Government Board to make regulations.

10. The power of the Local Government Board to issue directions and regulations under the Diseases Prevention Act, 1855, shall extend to issuing directions and regulations with respect to the powers and duties of the managers as a local authority under the Diseases Prevention Act, 1855, and with respect to the adjustment of their functions relatively to those of other local authorities under the said Act and this Act.

As to the powers and duties of a local authority under the Act of 1855, see the notes to section 2. As to the other local authorities see the notes to section 4.

Provision for hamlet of Mottingham.

11. The Diseases Prevention Act, 1855, shall be deemed to apply to the hamlet of Mottingham, in the county of Kent, and the rural sanitary authority of the Lewisham Union shall (subject

to the provisions of this Act) be the local authority for the execution of the said Act in the said parish, and their expenses shall be defrayed in like manner as their general expenses in the execution of the Public Health Act, 1875. Section 11. 38 & 39 Vict. c. 55.

12. In and for the purposes of this Act, words and expressions have the same meanings, unless inconsistent with the context, as they have in the Metropolitan Poor Act, 1867. Interpretation. 30 Vict. c. 6.

"Cholera" includes choleraic diarrhœa.

"Diseases Prevention Act, 1855," includes any Act or Acts amending the same. 18 & 19 Vict. c. 116.

13. This Act shall not continue in force after the first day of September, one thousand eight hundred and eighty-four, except so far as regards any property acquired, act done, or liability incurred under it prior to that date, and except as regards the Port Sanitary Authority of London. Duration of Act.

The Act is continued in force until the 31st December, 1890: 52 & 53 Vict. c. 67, s. 2.

THE MERCHANT SHIPPING (FISHING BOATS) ACT, 1883.

46 & 47 VICT. CHAP. 41.

AN ACT to amend the Merchant Shipping Acts, 1854 to 1880, with respect to fishing vessels and apprenticeship to the sea fishing service and otherwise.

[25th August, 1883.]

WHEREAS the enactments of the Merchant Shipping Acts, 1854 to 1880, with respect to fishing vessels, require amendment, and it is desirable to make further provision for the encouragement and regulation of the fishing trade:

And whereas it is expedient to amend the Acts relating to merchant shipping in certain particulars:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Merchant Shipping (Fishing Boats) Act, 1883. Title and construction of the Act.

Section 1.

This Act and the Merchant Shipping Acts, 1854 to 1880, the Merchant Shipping (Colonial) Act, 1869, and the Merchant Shipping (Colonial Inquiries) Act, 1882, may be cited collectively as the Merchant Shipping Acts, 1854 to 1883, and shall be construed as though they formed one Act. This Act shall not apply to Scotland.

The provisions of this Act are here included so far as they relate to boys apprenticed by guardians and overseers of the poor (section 12), and to seamen's lodging-houses (section 48).

Division of Act into parts.

2. This Act shall be divided into two parts, the first part relating to fishing boats and the sea fishing service, and the second part to miscellaneous matters.

PART I.

Fishing Boats and the Sea Fishing Service.

Application of the first part of this Act, and definitions.

3. Such portions of the first part of this Act as in any way relate to indentures of apprenticeship to the sea fishing service or agreements with boys under sixteen years of age with respect to such service shall apply to all fishing vessels of twenty-five tons register tonnage and upwards; and such portions of the first part of this Act as in any way relate to discipline, or the settlement of disputes between a skipper or owner and a seaman, or to deaths, injuries, punishments, ill-treatment, and casualties, and section twenty-five shall apply to all fishing boats and to the whole fishing service. The remainder of the first part of the Act shall apply to trawlers of twenty-five tons register tonnage and upwards only, and to no other fishing boats.

The Board of Trade, by order under the hand of the President of the Board of Trade, to be published in the *London Gazette*, may exempt any class of such trawler or trawlers belonging to any port from the whole or any portion of the said part of this Act from the date in such order mentioned, and may in like manner extend all or any of the provisions of the said part of this Act to any fishing boats in such order referred to, and may in like manner from time to time revoke, alter, or amend any order made by the Board as aforesaid. The Board of Trade may, before making any order under this section, institute such inquiry as in their opinion may be required for the purpose of enabling them to make such order by such person or persons as the President may appoint for the purpose, and the person or

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persons so appointed shall have power to take evidence on oath or otherwise, and shall have all the powers of an inspector appointed under the First Part of the Merchant Shipping Act, 1854.

In this Act "fishing boat" means a vessel for the time being employed in the sea fishing service, but shall not include a boat used by its navigators for catching fish otherwise than for profit. The onus of establishing any exemption or exception under or in the said part of this Act shall be upon the person or persons claiming or asserting such exemption. The "second hand" of a fishing boat in this Act means the mate or person next to the skipper in authority or command on board of her.

The registered tonnage of a fishing boat registered under the Merchant Shipping Acts, 1854 to 1883, and in the case of an unregistered fishing boat a certificate stating her register tonnage (ascertained according to the method sanctioned by the said Acts for the ascertainment of a ship's register tonnage) and purporting to be given under the hand of a Board of Trade surveyor, shall be conclusive of the tonnage of such boat.

Apprenticeship to the Sea Fishing Service and Agreements with Boys under Sixteen with respect to such Service.

Apprenticeship indentures and agreements with boys under 16, how to be entered into.

4. All indentures of apprenticeship to the sea fishing service, and all agreements with boys under sixteen years of age with respect to such service, shall be entered into before a superintendent of a mercantile marine office, who, before allowing the same to be completed, shall satisfy himself that the indenture or agreement complies with all the requirements of this Act, and that the master to whom the boy is to be bound is a fit person for the purpose, and that the boy is not under thirteen years of age, and is of sufficient health and strength, and that the nearest relations of the boy or his guardian or guardians assent to the boy's being apprenticed (in the case where the boy is apprenticed), and to the stipulations in the indenture or agreement, and shall make and sign an endorsement that he is so satisfied on the indenture or agreement. Where the nearest relations or guardian or guardians cannot readily be found, or are not known, or if there are none, the superintendent shall act as guardian for the occasion and state in the said endorsement that he has so acted. The said endorsement shall be evidence of the facts therein stated, and the superintendent's signature or appointment as superintendent shall not require proof. All

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such indentures or agreements shall be in triplicate, one to be kept by the master, one by the boy, and one by the superintendent.

Indentures of apprenticeship and agreements to contain provisions set forth in second schedule, otherwise to be void.

5. All such indentures of apprenticeship or agreement as are in section four referred to shall be in the forms in the second schedule to this Act set forth, and shall contain all the covenants, provisions, stipulations, and certificates set forth in the said forms in the second schedule, and also the endorsements on the forms in the said schedule, and the directions therein shall be complied with.

Her Majesty may from time to time, on the recommendation of the Board of Trade, by Order in Council annul, modify, or alter any of the said covenants, provisions, stipulations, or certificates, or make new covenants, provisions, stipulations, or certificates in addition thereto, or in substitution therefor, and any alterations or modifications in or additions to or substitutions for such covenants, provisions, stipulations, or certificates made in manner aforesaid shall be of the same force as the covenants, provisions, stipulations, and certificates in the said schedule.

Limits of age for lads employed in sea fishing.

6. No boy under the age of thirteen years shall enter into any indenture of apprenticeship to the sea fishing service, or agreement with respect to such service. Every indenture or agreement entered into contrary to this section shall be void.

Penalty on persons receiving money for binding apprentice.

7. Every person who receives any money or valuable consideration from the person to whom a boy is bound apprentice to the sea fishing service, or to whom a boy under sixteen years of age is bound by any agreement with respect to the sea fishing service, or from anyone on his behalf, or from the boy or anyone on his behalf, in consideration of the boy being so bound, and every person who makes or causes to be made any such payment shall be guilty of a misdemeanour, whether such boy was or was not validly bound apprentice or was or was not validly bound by such agreement.

Indentures and agreements with boys to be void if not entered into before a superinten-

8. Every such indenture of apprenticeship or agreement as aforesaid with respect to the sea fishing service not complying with the provisions of this Act or not entered into before a superintendent of a mercantile marine office and endorsed by him as aforesaid, or otherwise not made as by this Act required, shall be void, and the person to whom such indenture or agree-

ment purported to bind the boy shall, if he takes or causes the boy to be taken to sea, be liable to a penalty not exceeding twenty pounds. Every person who takes or causes to be taken to sea for the purpose of serving in some capacity connected with the sea fishing service a boy not bound by an indenture or agreement as aforesaid, or purporting to be bound by an indenture or agreement which is void under this Act, shall, for every such offence, incur a penalty not exceeding twenty pounds. Nothing in this Act shall prevent the daily employment in a fishing boat of any boy under sixteen years of age, who is under no obligation to remain in such employment for a longer period than one day, and with whom no written agreement has been made. Section 8. dent of mercantile marine.

9. The superintendent of a mercantile marine office at the port from which a boy is taken to sea may, for the benefit of the boy, if he thinks it just so to do, enforce by action or other appropriate legal proceedings brought or taken in his own name against the master, all or any of the stipulations in a void indenture or agreement which are in favour of the boy to such extent as he may deem just, and may (so far as necessary) apply any sums recovered by him in payment of the costs of recovering the same, and if there is no superintendent at such port, then the superintendent of the nearest port shall have the same powers. Penalty for taking boy to sea under void indenture or agreement, and powers of superintendent in such case.

10. The superintendent of the mercantile marine office before whom an indenture of apprenticeship or agreement as aforesaid with respect to the sea fishing service is completed, or his successor may, if he thinks fit, by action or other appropriate legal proceedings, brought or taken in his name, enforce on behalf of the boy against the master the stipulations in such indenture or agreement, and may (so far as necessary) apply any sums recovered by him in payment of the costs of recovering the same, and the superintendent of a mercantile marine office referred to in the apprenticeship indentures and agreements entered into under this Act shall have and when necessary execute the powers and authority therein given to them. Power of mercantile marine superintendents to enforce indentures or agreements.

11. All superintendents of mercantile marine offices shall when applied to by any person desirous of entering into indentures of apprenticeship to the sea fishing service or agreements with respect to such service under this Act, or desirous of causing the same to be entered into, render such assistance as in Shipping masters to assist in binding apprentices and making agreements,

Section 11. their power in reference thereto, and supply forms of articles or agreements at such reasonable rates (if any) as the Board of Trade may fix and may take from masters such fees (if any) as the said Board may fix in respect of articles or agreements entered into before them.

and to be under the control of the Board of Trade.

All such indentures and agreements shall be exempt from stamp duty.

Superintendents of mercantile marine offices shall, in carrying out this Act, be subject to the control of the Board of Trade, and shall obey any directions the Board of Trade may think fit to give to them.

Guardians and overseers of the poor to apprentice in conformity with this Act.

12. Guardians and overseers of the poor and persons having the authority of guardians or overseers of the poor desirous of apprenticing boys to the sea fishing service, shall not permit or cause articles of apprenticeship for that purpose to be entered into, except in conformity with the provisions of this Act.

The statutes which contain provisions relating to the binding of pauper apprentices are very numerous. They are 43 Eliz. c. 2; 18 Geo. 3, c. 47; 32 Geo. 3, c. 57; 42 Geo. 3, c. 46; 54 Geo. 3, c. 96; 56 Geo. 3, c. 139; 3 & 4 Will. 4, c. 63; 4 & 5 Will. 4, c. 76, s. 15; 5 & 6 Vict. c. 7; 7 & 8 Vict. c. 101, ss. 12, 13; 14 & 15 Vict. c. 11. The general power of guardians to apprentice boys is contained in 7 & 8 Vict. c. 101, s. 12.

When a boy is apprenticed under this Act it seems that the provisions of the General Consolidated Order of 24th July, 1847, as to the apprenticeship of pauper children, will not apply.

* * * * *

PART II.

Miscellaneous.

Seamen's lodging-houses.

48. The sanitary authority within whose district any seaport town is situate may, with the sanction of the President of the Board of Trade, from time to time make, revoke, alter, and amend bye-laws and regulations relating to seamen's lodging-houses in such town, which shall be binding upon all persons and bodies keeping houses in which seamen are lodged and the owners thereof and persons employed therein. Such bye-laws and regulations shall, amongst other things, provide for the licensing of seamen's lodging-houses, the inspection of the same, the sanitary conditions of the same, the publication of the fact of a house being licensed, the due execution of the bye-laws and regulations and the non-obstruction of persons engaged in securing such execution, the preventing of persons not duly

licensed holding themselves out as keeping or purporting to keep licensed houses, and the exclusion from licensed houses of persons of improper character, and sufficient penalties for the breach of such bye-laws and regulations not exceeding in any case the sum of fifty pounds. All offences under such bye-laws and regulations shall be deemed to be offences within the Merchant Shipping Acts, 1854 to 1883, and be punishable accordingly. Such bye-laws and regulations shall come into force from a date therein named, and shall be published in the *London Gazette* and one newspaper at the least circulating in such town, to be designated by the President of the Board of Trade. Section 48.

If the sanitary authority do not within a time to be from time to time named by the President of the Board of Trade make, revoke, alter, or amend bye-laws and regulations, the President of the Board of Trade may do so.

The "sanitary authority" means in England the local authority under the Public Health Act, 1875, and in the metropolis as defined by the Metropolis Management Act, 1855, the Metropolitan Board of Works, and in Scotland the local authority under the Public Health (Scotland) Act, 1867, and in Ireland the sanitary authority under the Public Health (Ireland) Act, 1878.

Whenever Her Majesty by Order in Council, to be published in the *London Gazette*, shall think fit to order that in any seaport town or any part thereof none but persons duly licensed under bye-laws and regulations to be made under this section shall keep seamen's lodging-houses or let lodgings to seamen from a date therein named, any person acting in contravention of such order shall be guilty of an offence, and shall forfeit a sum not exceeding one hundred pounds. Such offence shall be deemed to be an offence within the Merchant Shipping Acts, 1854 to 1883, and be punishable accordingly.

Her Majesty may, by Order in Council, to be published in like manner, from time to time revoke, alter, or amend any such order as aforesaid.

A sanitary authority may defray all expenses incurred by it in the execution of this section out of any funds at its disposal as the sanitary authority of the seaport town, and penalties recovered under the bye-laws and regulations or this section shall be added to such funds.

Any bye-laws heretofore made for any seaport town under

Section 48. section nine of the Merchant Seamen (Payment of Wages and Rating) Act, 1880, shall continue in force until bye-laws and regulations made for such town under this section come into force.

This section applies to rural as well as urban sanitary authorities.

* * * * *

SECOND SCHEDULE.

APPRENTICESHIP INDENTURE.

SEA FISHING SERVICE.

THIS INDENTURE, made ——— day of ——— 18—, between ——— aged ——— years, a native of ———, in the county of ——— (hereinafter called the "Apprentice,") of the first part, and ——— (1) of ———, in the county of ———, owner of not less than eight sixty-fourth shares in (or skipper of) the fishing boat ——— of ——— hereinafter called the "Master," of the second part, WITNESSETH, That the said "Apprentice" hereby voluntarily binds himself apprentice unto the said master, his executors, administrators, and assigns (which said master, his heirs, executors, administrators, and assigns, are hereinafter included in the term "Master") for the term of ——— years from the date hereof.

Registered at the Port of ———
this ——— day of ———, 18—.
Signed ———

(1) And the said apprentice hereby covenants and agrees that during such time, he, the said apprentice, will faithfully serve his said master, and obey his lawful commands, and keep his secrets, and will, when required, give to him true accounts of his goods and money which may be committed to the charge, or come into the hands, of the said apprentice; and will, in case the said apprentice enters Her Majesty's service during the said term, duly account for and pay, or cause to be paid, to his said master, all such wages, prize money, and other moneys as may become payable to the said apprentice for such service; and that the said apprentice will not, during the said term, do any damage to his said master, nor will he consent to any such damage being done by others, but will, if possible, prevent the same, and give warning thereof; and will not embezzle or waste the goods of his master, nor give or lend the same to others without his license; nor absent himself from his service without leave; nor frequent taverns or alehouses, unless upon his master's business.

(2) IN CONSIDERATION WHEREOF, the said master hereby covenants and agrees with the said apprentice, that he, the said master, will and shall during the said term use all proper means to teach the said apprentice or cause him to be taught the business of a seaman and fisherman, and will and shall provide the said apprentice with (3) sufficient meat, drink, lodging, washing, medicine, and medical and surgical assistance, sea-bedding, wearing apparel, and necessaries,

Schedule 2.

and will and shall at the times and in the manner hereinafter mentioned, pay to or on account of the said apprentice the spending-money, remuneration, and payments referred to in the endorsement marked A. on the back hereof.

(3) AND IT IS HEREBY AGREED, that all wearing apparel provided by the said master for the use of the said apprentice shall, during the said term, remain the property of the said master, provided, however, that the said apprentice shall, during such term, have full and undisputed right and title to the free and unfettered use thereof at all times for his own sole personal use and wear, but shall, prior to the expiration of the said term, acquire no right or title thereto for the purpose of selling, pledging, or otherwise disposing thereof; at the expiration of the apprenticeship the apparel shall become the apprentice's property. (4)

(4) And it is hereby further agreed, that the said master shall not, during the said term, pay to the said apprentice any wages or moneys wherewith to provide board and lodging for himself, but shall and will provide him with suitable and sufficient board and lodging to the satisfaction of the Superintendent of the Mercantile Marine Office at the port where the apprentice stays when on shore, or if there is not a superintendent at that port the superintendent at the next port thereto. (5)

(5) And it is hereby further agreed that all moneys to which the said apprentice shall become entitled as spending-money shall be paid by the said master, as they become due into the hands of the said apprentice: Provided, however, that if the said apprentice shall, through misconduct, have in the opinion of the said superintendent forfeited his right to receive the same, the said moneys shall be paid to the said superintendent, to be by him placed to the credit of the said apprentice in the Seamen's Savings Bank; and that the remuneration and payments, as well as any share of salvage earned by the vessel in which the apprentice may be employed at the time such salvage is earned, referred to in the endorsement marked A. on the back hereof, to which the said apprentice shall become entitled, shall be forthwith paid by the said master to the said superintendent, and by him placed to the credit of the said apprentice in the Seamen's Savings Bank, there to remain until the expiration or sooner determination of the term of apprenticeship, subject nevertheless, to the deduction of any fine or forfeiture inflicted by a competent court upon the said apprentice, and of any fees paid by the said master to the Mercantile Marine Office in respect of the said apprentice: (6)

(6) And it is hereby further agreed and understood that the said apprentice shall not be required to serve in any smack or vessel in which such master is not during the continuance of such service himself serving as master, mate, or seaman, or in which such master, if not so serving, does not during the continuance of the said apprentice's service in such smack or vessel, possess an interest of at least one eighth of the value of such smack or vessel; and the said superintendent may, in cases where the master is, in his opinion, unable to provide the apprentice with such services as is by this clause permitted, within a reasonable time cancel this indenture and adjudge a sum to be paid to the apprentice by the master as compensation, which shall be recoverable as, and deemed to be wages due to the apprentice. (7)

Schedule 2.

(7) And the said master hereby undertakes to attend with the said apprentice once at least in every half-year during the continuance of this indenture, before the said superintendent with a view to the investigation by him of questions affecting the earnings and service of such apprentice, and at such times to give to the said superintendent a full, true, and faithful report of the character, conduct, and efficiency of the said apprentice :

(8)

(8) And it is hereby further agreed that within twenty-eight days after the expiration of the probationary period hereinafter mentioned, or if the boat (on board of which the apprentice is) is at sea during the whole of the twenty-eight days then immediately upon her return to port, this indenture and the said apprentice shall be brought to the said superintendent for his signature to the endorsement marked C. on the back hereof, and that in the event of the superintendent seeing sufficient grounds for withholding his signature, the apprenticeship shall cease from a date to be named by the said superintendent, and upon the terms and conditions to be by him prescribed, which said date and terms and conditions shall be recorded in the Register of Apprentices kept by the said superintendent, and shall be notified to and observed by the said master and the said apprentice :

(9)

(9) And it is hereby further agreed that the said superintendent shall have power, if the circumstances of the case appear to him to warrant such a course, at any time within the probationary period to decide that he will be unable to sign the said endorsement marked C., and thereupon the apprenticeship shall cease from a date to be named by the said superintendent and upon the terms and conditions to be by him prescribed ; which said date and terms and conditions shall be recorded in the said Register of Apprenticeship, and shall be notified to and observed by the said master and the said apprentice :

(10)

(10) And it is hereby further agreed that breaches of agreement or discipline alleged to have been committed by the said apprentice within the said probationary period, shall not be taken before any court for adjudication unless and until the said superintendent shall have first had an opportunity of inquiring into the same and have declined so to inquire, or shall upon inquiry determine to send the same for adjudication :

(11)

(11) And the said master and apprentice hereby consent to and undertake to abide by the covenants, obligations, agreements, and provisoes herein contained :

(12)

(12) The probationary period of ——— shall be allowed to the apprentice under this indenture, and if at the end of that period or the next return from sea thereafter he applies to the said superintendent to put an end to the apprenticeship, the superintendent may, after communicating with the master, if he sees sufficient grounds for cancelling this indenture and ending the apprenticeship, cancel and end the same, and thereupon the indenture shall be cancelled, and the apprenticeship ended from the date to be endorsed thereon by the said superintendent.

(13)

And for the performance of the said covenants, obligations, agreements, and provisoes, the said master does hereby bind himself, his heirs, executors, and administrators, unto the said apprentice, his executors and administrators, in the penal sum of £——— : Provided, that notwithstanding the penal stipulations herein contained any

justice or justices of the peace may exercise such jurisdiction in respect of the said apprentice as he or they might have exercised if no such stipulations had been herein contained. Schedule 2.

In witness whereof, the said parties have hereunto set their hands and seals the day and year above written.

Signed, sealed, and delivered in the presence of and approved by

_____

Superintendent of the Mercantile Marine Office. L. S. _____ (Master).

Port of _____ L. S. _____ (Apprentice).

NOTE.—*This Indenture must be executed in triplicate; one copy will be retained and recorded by the superintendent above referred to, one retained by the master, and the other retained by the apprentice.*

ENDORSEMENTS REFERRED TO IN THE BODY OF THIS INDENTURE AND IN THE ACT.

A.—PARTICULARS OF SPENDING MONEY, REMUNERATION, AND PAYMENTS.

SPENDING MONEY.

(*Here are to be entered full particulars of the amounts to be from time to time paid to the apprentice as spending money during the term of the apprenticeship.*)

REMUNERATION AND PAYMENTS.

(*Here are to be entered full particulars of all allowances, perquisites, shares, or proportions of salvage if earned by the smack, or other payments or emoluments to which the apprentice may become entitled in the course of his apprenticeship.*)

B.—(Here state pursuant to section 4 whether the nearest relations or the guardian or guardians assent, and such other particulars as the Act requires. If the superintendent acts as guardian he should state that the nearest relations or guardian or guardians cannot readily be found, or are not known, or that there are none, and that he has acted as guardian.)

Schedule 2.

C.—I hereby certify that, after full inquiry made by me, I see no sufficient grounds for interfering with this apprenticeship.

Dated this_____day of_____ 18_____.

_____ Superintendent, Mercantile Marine Office, Port of_____

AGREEMENT WITH A BOY UNDER SIXTEEN.

SEA FISHING SERVICE.

THIS AGREEMENT made ——— day of ——— 18———, between ———, aged ——— years, a native of ———, in the county of ——— (hereinafter called the "Boy") of the first part and ——— of ——— in the county of ——— Owner of not less than eight sixty-fourth shares in (or skipper of) the fishing boat ——— of ——— (hereinafter called the "Master") of the second part, WITNESSETH, That the boy hereby voluntarily agrees to serve as a boy on board the fishing boats(*a*) ——— of which the master is owner (or skipper) for(*b*) ——— and the boy agrees to conduct himself in an orderly, faithful, honest, and sober manner, and to be at all times diligent in his duties, and to be obedient to the lawful commands of his master and of the skipper and officers of the fishing boat on which he is serving in everything relating to his service and the fishing boat, and the stores and cargo thereof, whether on board, in boats, or on shore. And the master agrees to pay to the boy the wages and remuneration stated on the back of this agreement, and to supply him with suitable and sufficient provisions to the satisfaction of the superintendent of the Mercantile Marine Office at the port of(*c*) ——— And shall also whenever the boy is on shore during the duration of this agreement, with the consent of the master or skipper, provide him with suitable and sufficient board and lodging to the satisfaction of the said superintendent. And it is hereby agreed that any embezzlement, or wilful or negligent destruction of any part of said boat's cargo or stores shall be made good to the owner out of the wages of the boy, and that the regulations for maintaining discipline sanctioned by the Board of Trade which are printed hereon and numbered(*d*) ——— are adopted as part of this agreement. And it is hereby further agreed that the boy shall not be required to serve on any boat in which the master is not during the continuance of such service himself serving as skipper, first hand, or seaman, or in which the master does not during the continuance of such service possess an interest of at least one-eighth share. And it is agreed that the boy shall receive from the master the wages and remuneration aforesaid at the times stated on the back hereof, and that the boy shall be entitled to participate in any sum or sums of money arising from any salvage or salvage services performed or rendered by or by means of the boat on which he is serving or the crew thereof in such proportion as is stated on the back hereof.

(*e*) The probationary period of ——— shall be allowed to the boy under this agreement, and if at the end of that period or the next return from sea thereafter he applies to the said superintendent to put an end to the agreement, the superintendent may, after com-

Registered at the Port of_____
this _____ day of _____, 18_____.
Signed_____

municating with the master, if he sees sufficient grounds for cancelling the agreement, cancel and put an end to the same, and the agreement shall thereupon be cancelled and ended from the date endorsed thereon by the said superintendent.

And it is hereby further agreed that breaches of agreement or discipline alleged to have been committed by the boy within the said probationary period shall not be taken before any court for adjudication unless and until the said superintendent shall have first had an opportunity of inquiring into the same, and have declined so to inquire, or shall upon inquiry determine to send the same for adjudication.

And it is hereby further agreed that (*f*) ———.

And it is hereby further agreed that the boy or the master may, after the expiration of the probationary period (if any), give to the other ——— days notice to determine this agreement, and the agreement shall thereupon be determined, and the boy shall be entitled to wages and remuneration up to and including the date of the expiration of such notice, to be paid on the day of such expiration: Provided always, that such notice of dismissal shall not be capable of expiring during the continuance of a voyage or at a place other than the port to which the boat on which the boy is serving belongs.

And it is further agreed that either the boy or the master thall be entitled to appeal to the said superintendent to decide any dispute between them arising out of this agreement or in relation to the boy's service, and the said superintendent's decision, if he thinks fit to decide the same, shall be final.

In witness whereof the said parties have hereunto set their hands on the day and in the year above written.

Signed in the presence of
and approved by _____

_____ Master.

_____ Boy.

Superintendent of the Mercantile Marine Office at the port of ———.

NOTE.—This agreement must be executed in triplicate; one copy will be retained and recorded by the superintendent above referred to, one retained by the master, and the other retained by the boy.

(*a*) Here should be inserted the names of the boats on which the boy is to serve, or if he is intended to serve on no specific boats but any boats belonging to the master or of which he is skipper, then it should be left blank.

(*b*) Here must be inserted the nature of the engagement, whether for the voyage or for a stated period.

(*c*) The port which the superintendent before whom it is signed considers most convenient.

(*d*) The regulations sanctioned by the Board of Trade printed on this agreement and the numbers of those which are to form part of this contract must be filled in.

(*e*) This and the next clause need only be inserted in cases where the agreement is to exceed one month, or where the agreement is for more than one voyage and likely to continue for more than one month.

(*f*) Here insert any stipulations not contrary to law to which the parties agree and which the superintendent approves.

Schedule 2. [TO BE PRINTED ON BACK OF AGREEMENT.]

Endorsements referred to in the body of this Agreement and in the Act.

A.—Particulars of wages, remuneration, and payments. (Here are to be entered full particulars of all allowances, perquisites, wages, remunerations, emoluments, shares of catch, &c., with the times when the boy is to receive the same, and also the proportion of salvage the boy is to have.)

B.—(Here state pursuant to section 4 whether the nearest relations or the guardian or guardians assent, and such other particulars as the Act requires. If the superintendent acts as guardian he should state that the nearest relations or guardian or guardians cannot readily be found, or are not known, or that there are none, and that he has acted as guardian.)

Here print the regulations with respect to boys for maintaining discipline sanctioned by the Board of Trade.

THE CITY OF LONDON PAROCHIAL CHARITIES ACT, 1883.

46 & 47 VICT. CHAP. 36.

An Act to provide for the better application and management of the Parochial Charities of the City of London.

[20th August, 1883.]

WHEREAS it is desirable to make provision for the better application and management of the parochial charities of the city of London:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the City of London Parochial Charities Act, 1883.

I.—*Appointment and Powers of Commissioners.*

Appointment of Commissioners.

2. The Charity Commissioners for England and Wales (hereinafter called the Commissioners) shall be Commissioners under this Act and have the following powers for the purposes thereof, viz.:

(1) Power to exercise, without application, any of the powers vested in them by the Charitable Trusts Act, 1853, and the Acts amending the same:

16 & 17 Vict. c. 137.

(2) The like power, jurisdiction, and authority to summon or order persons to give evidence, or bring, produce, or give inspection of documents, and to administer oaths, and to take affidavits and declarations, and to enforce their orders or directions, and generally all such power, jurisdiction, and authority as might be exercised by the High Court of Justice if the matters and questions referred to them had come before that Court, and in relation to the taking of oaths and the making of affidavits and declarations the proceedings before them shall deem to be judicial proceedings.

(3) Power to determine whether any property is or is not charity property subject to the powers of this Act.

The Charitable Trusts Act, 1853, is the 16 & 17 Vict. c. 137, and the principal amending Acts are 18 & 19 Vict. c. 124; 23 & 24 Vict. c. 136; 25 & 26 Vict. c. 112; 32 & 33 Vict. c. 110; 35 & 36 Vict. c. 24; and 50 & 51 Vict. c. 49. The Act last mentioned is set out, *post*. By the 16 & 17 Vict. c. 137, the Charity Commissioners were appointed and their duties defined. They may "examine and inquire into all or any charities in England or Wales, and the nature and objects, administration, management, and results thereof, and the value, condition, management, and application of the estates, funds, property, and income belonging thereto." They may also entertain applications by trustees or other persons interested in any charity for their opinion, advice, or direction respecting such charity, or the estates, funds, property, or income thereof, or any question or dispute relating to the same. They may also frame schemes for the application or management of charities. Under 18 & 19 Vict. c. 124, s. 10, they may apportion parochial charities after the division of parishes. A detailed account of the Acts above mentioned is, of course, beyond the scope of the present work.

With regard to the power of the Commissioners to determine whether any property is charity property, see Part II. of this Act and the cases cited in the notes to section 10, *post*.

Appointment of additional Charity Commissioners.

3. Her Majesty and her successors may, at any time after the passing of this Act, by warrant under Her Sign Manual, appoint any number of persons, not exceeding two, to be paid Charity Commissioners for England and Wales, who shall hold office during Her Majesty's pleasure, and their salaries shall, unless otherwise directed by Parliament, cease to be paid after the expiration of the period prescribed by this Act for the duration of the powers and duties vested in or imposed upon the Charity Commissioners for England and Wales by this Act.

Save as in this section mentioned, the additional Commissioners shall have the same powers, and perform the same duties, and stand in all respects in the same position as the other paid Charity Commissioners, with the exception of the Chief Commissioner.

The Commissioners of Her Majesty's Treasury may allow the

Section 3. Charity Commissioners to employ such number of assistant commissioners, clerks, architects, actuaries, surveyors, and other officers as the Commissioners of Her Majesty's Treasury may think necessary for the purpose of enabling the Charity Commissioners to perform the additional duties imposed upon them by this Act.

Duration of powers of Commissioners.

4. The powers of the Commissioners conferred by this Act shall continue until the end of the year one thousand eight hundred and eighty-seven, but it shall be lawful for Her Majesty the Queen from time to time, with the advice of Her Privy Council, to continue the powers of the Commissioners for such time as Her Majesty thinks fit, but not beyond the end of the year one thousand eight hundred and eighty-nine.

This period is extended to the 31st March, 1891. 52 & 53 Vict. c. 67, s. 2.

II.—*Inquiry and Statement.*

Commissioners to inquire into the charity property, and classify same in two schedules, one of ecclesiastical and the other of general charity property.

5. The Commissioners shall, as soon as may be, proceed to inquire into the nature, tenure, and value of all the property and endowments belonging to the charities mentioned in the Digest of Parochial Charities of the City of London referred to in the Thirteenth Report of the Charity Commissioners for England and Wales, and every of them, and every other charity the property or income of which is applicable or applied to or for the benefit of any parish or part of a parish within the city of London or of any inhabitant or inhabitants thereof (hereinafter called the said parochial charities), and the purposes or trusts for or upon which the same have heretofore been or are now held or enjoyed and to which the income thereof has been or is now applied, and shall classify the said property in two schedules. They shall place in one of such schedules all property (hereinafter called "ecclesiastical charity property") which shall be proved to their satisfaction to have been originally given to or for, or to have been duly ordered by any Act of Parliament, judgment of a court, or other authority competent in that behalf, to be applied to or for, and to have been accordingly applied to or for any spiritual purpose which is now a legal purpose, or for the benefit of any spiritual person as such, or for the erection, maintenance, or repair of any ecclesiastical buildings, or for the maintenance of divine service therein, even although such purpose may now have failed, but the user of property for an ecclesiastical or any other purpose shall not be conclusive evidence that such property

Section 5.

was originally given for such a purpose, but shall be taken into account by the Commissioners in determining whether in each case such property is or is not to be deemed to have been originally given for such a purpose, provided that no property shall be deemed to be ecclesiastical which shall not have been given or applied to or for or in connection with the Church of England. In the other of such schedules they shall place all other charity property (hereinafter called "general charity property"). The Commissioners shall specify in the said schedules the objects or purposes to or for which the said property is now applied, and all vested interests now existing in or upon or in anywise affecting any part of such property.

A church in the city of London was, in 1536, by statute vested in the parson, churchwardens, and parishioners and their successors "in free alms for ever." The rest of the parish property was held by the parson, churchwardens, and parishioners under a lease granted in 1587, "for the relief and maintenance of poor, aged, impotent, and diseased persons in the said parish, and for the necessary reparations of the parish church." The rents of all the property had been applied for general parish property. It was held—(1) that the property was within the above section; (2) that the parson, churchwardens, and parishioners were not a corporation, and had no vested interest in the property: *Re St. Alphage's Parish*, 59 L. T. (N.S.) 614.

Where property is mixed, Commissioners to apportion ecclesiastical and general.

6. Where property scheduled by the Commissioners as ecclesiastical has been mixed with property scheduled by them as general charity property, or where the income of any property is considered by them to be partly ecclesiastical and partly general, the Commissioners shall determine and state how much of such property or income, as the case may be, shall be taken to be ecclesiastical, and how much of the same shall be taken to be general.

As to vested interests and equitable claims.

7. No person shall be deemed to have any vested interest within the meaning of this Act if the office which he may hold or the emolument which he may receive shall be one tenable or receivable at the pleasure of some other person or persons, but the Commissioners shall consider and may declare what person or persons have, in their opinion, owing to the circumstances of the position of such person or persons, or generally on moral grounds, any fair or equitable claim to continue to receive any emolument now received by him or them out of any endowment.

A. was, in 1883, appointed clerk and solicitor to the trustees of a charity founded in 1503, without any period being fixed for the duration of his appointment. After the passing of this Act the Charity Commissioners sanctioned a scheme for the regulation of the charity. It was held that A.

Section 7. NOTE.

had not a vested interest within this section: *Re St. Edmund's Parish*, 60 L. T. (N.S.) 622.

And see the case cited in the note to section 5, *ante*, p. 219.

Commissioners to publish result of inquiry.

8. The Commissioners shall, in such form as they may think most convenient, print and publish a statement or successive statements containing the findings and determinations at which they shall have arrived in the course of the inquiry aforesaid.

Commissioners to send copy of statement to governing bodies, &c.

9. The Commissioners shall send a copy of every such statement to the governing body of every endowment affected by such statement, and also to the vestry clerk of every parish in which any endowment affected by such statement is applicable, and also to the Remembrancer of the City of London.

Person claiming vested interest not recognised by Commissioners or denying existence of charitable trust may apply to High Court of Justice.

10. Any person claiming any vested interest affecting any endowment mentioned in any such statement, and alleging that the Commissioners have not duly recognised such vested interest, or any person or persons alleging that any property which the Commissioners have determined to be charity property within the meaning of this Act is not charity property, but that he or they is or are entitled to the same free from any charitable trust affecting the same, may, within two months from the date of the publication of such statement, apply to the High Court of Justice, by petition or summons at chambers, asking for a declaration that he has a vested interest affecting such endowment, or that such property is not charity property (as the case may be). The Commissioners may appear upon any such proceedings, and the decision of the judge before whom such petition or summons is heard shall be final (unless special leave to appeal shall be by him given). The judge shall make a declaration in conformity with the justice of the case, and shall have power to order that the costs of the application shall be paid out of the endowment or property in question or by any party to the application, as he may think right. Whenever necessary the Commissioners shall amend their statement so as to make it conform to the judge's declaration.

Under the provisions of the Act 35 Geo. 3, c. 61, passed in 1795, a piece of land was vested in trustees for the purpose of building a workhouse for the poor of a parish in the city of London, and power was given to raise 10,000*l.* to pay for the land and the building, by the grant of annuities for lives or years, which were to be charged on rates which the Act authorised to be levied on the parishioners. The Act provided that the land should be held "for the use and benefit of the parish." The workhouse was built and was used for many years for the poor of the parish. In 1837 a poor law union was formed, and the workhouse being no longer required, the income of the property was thenceforth applied in aid of the poor rates of

Section 10. NOTE.

the parish. It was held that the property was charity property within the meaning of this Act, and was subject to the jurisdiction of the Charity Commissioners: *Re St. Botolph Without, Bishopsgate Parish Estates*, 35 Ch. D. 142; 56 L. J. Ch. 691; 56 L. T. (N.S.) 884; 35 W. R. 688.

Under a Crown grant in 1589 an impropriate rectory in the city of London, and also the parish church and the advowson, were vested in trustees for the benefit of the parish, the vicar being always chosen by the parishioners. A vicarage-house was provided by a benefaction in a will dated in 1722, and had since been held by trustees on trusts for the benefit of the parish. Held that the advowson and house were "charity property" within the City of London Parochial Charities Act, 1883; and a petition presented, as a test case under section 10, by the several trustees for a declaration that they were not "charity property" was dismissed with costs, the court refusing to sanction an arrangement between the various parishes affected by the decision for payment of the petitioners' costs out of the charity estates. "Special leave to appeal" under section 10 was also refused, on the ground that such leave should only be given where the judge considered the question raised by the petition to be doubtful: *In re St. Stephen, Coleman Street; In re St. Mary the Virgin, Aldermanbury*, 39 Ch. D. 492; 57 L. J. Ch. 917; 59 L. T. 393; 36 W. R. 837.

The site of a church was vested by statute in the Corporation of London in trust for a parish, and had been treated for 200 years as vested in the rector and churchwardens. It was held that the site of the churchyard, which formerly adjoined the church, was charitable property within this section: *Re St. Nicholas Acon's Parish*, 60 L. T. (N.S.) 532.

III.—*Schemes for better application of Charity Funds.*

Commissioners to frame schemes for charity property.

11. The Commissioners shall, as soon as may be after the publication of the statement or statements aforesaid, proceed to prepare a scheme or schemes for the future application and management of the charity property and endowments so classified by them as hereinbefore directed.

Provisions to be inserted in all schemes.

12. In every such scheme the Commissioners shall provide for the following objects; that is to say,

(*a*) For the vesting in the official trustee of charity lands appointed under the Charitable Trusts Acts, 1853 to 1869, of all real property and chattels real belonging to the charity or charities dealt with in the scheme, and for the vesting in the official trustees of charitable funds appointed under the last-mentioned Acts of all personal property belonging to the charity or charities dealt with in the scheme, upon trust to hold the same real and personal property respectively as in the said Acts and hereinafter provided, but subject to all quit-rents, leases, tenancies, equities, reservations, charges, and all other incumbrances and liabilities affecting the same:

(*b*) For carrying over to a separate account a sum of money out of the charity property and endowments dealt

Section 12.

with by the scheme to answer and provide for the expenses incurred by the Commissioners in carrying out this Act:

(*c*) For saving the vested interest of or making due compensation to every person whom the Commissioners may have declared entitled to any vested interest which may be prejudiced by the scheme, and for making compensation to any person whom the Commissioners may have considered as aforesaid to have a fair or equitable claim to any emolument taken away by the scheme.

The secretary of the Commissioners is incorporated as the official trustee of charity lands: 16 & 17 Vict. c. 137, ss. 47, 48; 18 & 19 Vict. c. 124, s. 15.

The secretary, and such other persons as the Lord Chancellor may from time to time appoint, are the official trustees of charity funds: 16 & 17 Vict. c. 137, s. 51; 18 & 19 Vict. c. 124, s. 17.

As to vested interests, see section 7, *ante*, p. 219.

Provisions to be inserted in schemes relating to parishes in First Schedule.

13. In every scheme relating to the charity property or endowments belonging to or now applicable in the parishes enumerated in the First Schedule to this Act, the Commissioners shall, subject to the carrying over and to the provision for saving or making compensation hereinbefore contained, provide for the following objects; that is to say,—

(*a*) For the application of the property scheduled as ecclesiastical charity property, or any part of the income thereof, to the maintenance of the fabric and the services of the church, or to such other of the ecclesiastical purposes to which the same is now applied as are, in the opinion of the Commissioners, still beneficial to the inhabitants of each of the said parishes, or to any class thereof; and, subject thereto, to such other ecclesiastical purposes within the parish to which such property and endowments belong as the Commissioners may think most conducive to the spiritual benefit of the inhabitants of the said parish:

(*b*) For the application of the property scheduled as general charity property (to such extent as the Commissioners may think desirable) to such of the objects and purposes to or for which the same is now applied as the Commissioners may consider proper and legal and substantially beneficial to the inhabitants of each of the said parishes, or to any class thereof; and, subject thereto, for the application of such property to any

Section 13.

one or more of the following objects, either within the parish to which the property belongs or in which it is now applicable, or within any parish which was formerly united with or formed part of such parish, or in such manner as to secure to the inhabitants of such parish, and to persons employed in such parish though not resident therein, the benefit of such application; that is to say,—

To the promotion and improvement of the education of the poorer inhabitants of such parish, and other persons as aforesaid, whether by means of exhibitions, or of technical instruction, or of secondary education, or of art education, or of evening lectures, or otherwise, as to the Commissioners may seem good;

To the establishment and maintenance of libraries under such provisions as may make them useful to such poorer inhabitants and other persons as aforesaid;

To the preserving, providing, and maintaining of open spaces and recreation grounds or drill grounds;

To the promotion and extension, in such manner as the Commissioners may think desirable, of provident institutions and of working men's and women's institutes for the benefit of such poorer inhabitants and other persons as aforesaid;

And generally to the physical, moral, and social improvement of the poorer inhabitants and other persons as aforesaid of such parishes by such means as the Commissioners may think suitable.

As to the meaning of the terms "ecclesiastical charity property" and "general charity property," see section 5, *ante*, p. 218.

Provisions to be inserted in schemes relating to parishes in Second Schedule.

14. In every scheme relating to the property or endowments belonging to or now applicable in the parishes enumerated in the Second Schedule to this Act, the Commissioners shall, subject to the carrying over and to the provision for saving or making compensation hereinbefore contained, provide for the following objects; that is to say,—

(*a*) For the application of the property, or any part of the income thereof, scheduled as ecclesiastical charity property, to the maintenance of the fabric and the

Section 14.

services of the church, if any, in each parish possessed of ecclesiastical charity property applicable to such purposes or to such other of the ecclesiastical purposes to which the same is now applied as are, in the opinion of the Commissioners, still beneficial, and to the maintenance of the fabric and monuments of any churches within the city of London of architectural or historical interest which may not already possess sufficient funds available for that purpose; and, subject thereto, for payment to the Ecclesiastical Commissioners of the surplus income of the said ecclesiastical property, to be by them applied to the maintenance of the fabric of churches, or to the better endowment of existing benefices, or to giving theological instruction to persons preparing for holy orders, or generally to extending the benefit of clerical or spiritual ministrations in accordance with the doctrines or by the ministers of the Church of England as by law established in the more populous districts of the Metropolis:

(*b*) For the administration and management of the property scheduled as general charity property by the New Governing Body hereinafter constituted, except in cases where the Commissioners may provide as hereinafter mentioned for the administration and management of any property by any existing body or bodies of trustees thereof:

(*c*) For the application by the said New Governing Body, or by any such existing body or bodies of trustees as lastly herein-before mentioned in any such case or cases as last aforesaid, of such last-mentioned property (to such extent as the Commissioners may think desirable) to such of the objects or purposes to or for which the same are now applied as the Commissioners may think proper and legal and substantially beneficial to the inhabitants of the parish in which the same is now applicable, or to any class thereof, or in such manner as to secure to the inhabitants of the said parishes, and to persons employed though not resident therein, the benefit of any one or more of the applications in this section hereinafter mentioned; and, subject thereto, for the application by the said New Governing Body of such property to any one or more

of the following objects within the Metropolis in manner to be specified by the said scheme or schemes; that is to say,

To the promoting the education of the poorer inhabitants of the Metropolis, whether by means of exhibitions, or of technical instruction, or of secondary education, or of art education, or evening lectures, or otherwise, as to the Commissioners may seem good;

To the establishment and maintenance of libraries, or museums, or art collections within the Metropolis under such provisions as may make them useful to the poorer inhabitants thereof;

To the preserving, providing, and maintaining of open spaces and recreation grounds or drill grounds within the Metropolis;

To the promotion and extension, in such manner as the Commissioners may think desirable, of provident institutions and of working men's and women's institutes for the benefit of the poorer classes of the Metropolis;

To the establishment and maintenance, in such places as the Commissioners may think suitable, of convalescent hospitals for the benefit of the poorer classes of the Metropolis;

And generally to the improving, by the above or any other means which to the Commissioners may seem good, the physical, social, and moral condition of the poorer inhabitants of the Metropolis.

As to the meaning of the terms "ecclesiastical charity property" and "general charity property," see section 5, *ante*, p. 218.

As to the new governing body, see Part VI., *post*.

Schemes relating to parishes in First Schedule to this Act may provide for union of governing bodies.

15. In any scheme relating to the property or endowments belonging to or now applicable in the parishes enumerated in the First Schedule to this Act the Commissioners may, if they think fit, provide for the union of any existing governing bodies of two or more endowments into one new governing body for each of the said parishes, or for the creation of a new governing body or bodies in each such parish, and for the transfer to such new governing body or bodies (if created) of the control and

Section 15. management of the charity property and endowments belonging to or applicable in such parishes.

Schemes relating to parishes in Second Schedule may provide for payment of moneys to trustees of existing institutions.

16. In any scheme providing for the application of the property scheduled as general charity property now belonging to or applicable in the parishes mentioned in the Second Schedule to this Act, the Commissioners may, if they shall think fit, provide for the payment by the said New Governing Body of any capital or annual sum or sums of money to the trustees or managers of any institution now existing, or which may hereafter exist, for any of the charitable purposes to or for which such general charity property is hereby made applicable, to be applied by such trustees or managers to or for such purpose; and may, in the case of any scheme relating to an open space or recreation ground or drill ground, provide that any lands or hereditaments purchased in pursuance of such scheme shall be conveyed to and vested in the Metropolitan Board of Works or other proper local authority, and that any moneys to be paid for the maintenance of such space or ground shall be paid to the said Board or other local authority (as the case may be) in which the legal estate in such open space or ground may be vested.

The London County Council has now taken the place of the Metropolitan Board of Works: 52 & 53 Vict. c. 41, s. 40 (8).

Commissioners may create new bodies of trustees.

17. In any scheme relating to the general charity property now belonging to or applicable in the parishes mentioned in the said Second Schedule, the Commissioners may (if they shall think fit) provide for the creation of a new body or bodies of trustees, either in a defined local area in the Metropolis or for any one or more of the charitable purposes to or for which such property is hereby made applicable, or in both of these ways, and may also provide for the payment to such new body or bodies of trustees by the said New Governing Body of such capital or annual sum or sums of money as the scheme may direct, to be applied by such new body or bodies of trustees in pursuance of the scheme. Where any such scheme provides for the creation of such a new body of trustees in or for any such defined local area, the Commissioners shall, so far as conveniently may be, provide for the representation on such new body of trustees of the inhabitants of such local area.

Commissioners may retain or

18. In framing any scheme relating to the general charity property now belonging to or applicable in the parishes mentioned in the said Second Schedule, the Commissioners shall

consider and declare whether it is for the public advantage that any of the property or endowments belonging to the charity or charities dealt with by the scheme shall continue to be administered and managed by the body or bodies of trustees now administering and managing the same; and the Commissioners may in any such case provide that such property or endowments shall continue to be administered and managed by such body or bodies, and in any such case may alter the constitution of any such existing body or bodies of trustees, and, if they shall think fit, unite such bodies or body with any other body or bodies of trustees so as to create a new body or bodies of trustees for the administration, management, and application of such property and endowments in the said parishes, or any one or more of them, or for the application of such property and endowments, or any part of them, to any one or more of the objects to which such property and endowments may be applicable under the fourteenth section of this Act.

Section 18. modify existing bodies of trustees.

19. The Commissioners shall not be bound to provide in any one scheme for all the objects aforesaid, but may make provision for such objects, or any one or more of them, by one or by more schemes in the manner they shall judge most convenient, nor shall anything herein be construed to prevent the Commissioners from providing in any such scheme or schemes for any other object which shall upon inquiry appear to them to be necessary or desirable for the purposes of this Act, nor from proposing in any scheme any such modifications and variations as to matters of detail and regulation as shall not be substantially repugnant to any of the provisions of this Act.

More schemes than one may be made, and other objects provided for.

20. The Commissioners shall not be bound to specify in any scheme the precise objects to which or the manner in which the general charity property shall be applied by the New Governing Body, but they may (if they shall think fit) specify such objects or manner with such particularity as they may think necessary, and may (if they shall think fit) leave the details of such application to be subsequently settled by the New Governing Body in manner hereinafter mentioned.

Scheme need not specify precise application of general charity property.

21. No scheme shall be so framed as to affect or shall affect any endowment or part of an endowment (as the case may be) originally given to charitable uses less than fifty years before the commencement of this Act, unless the governing body of such endowment assent to the scheme.

Saving for endowments less than fifty years old.

Section 22.

Educational interests of girls to be regarded.

22. In making schemes for the application of charity property or endowments to educational purposes the Commissioners shall have as much regard to the educational interests of girls as of boys.

Saving for educational endowments under 32 & 33 Vict. c. 56, s. 5.

23. It shall not be obligatory upon the Commissioners to prepare a scheme under this Act for any endowment, or part of an endowment, which is an educational endowment as defined by section five of the Endowed Schools Act, 1869.

The 32 & 33 Vict. c. 56, s. 5, defines an educational endowment to mean "an endowment or any part of an endowment which, or the income thereof, has been made applicable or is applied for the purposes of education at school of boys and girls, or either of them, or of exhibitions tenable at a school or university, or elsewhere, whether the same has been made so applicable by the original instrument of foundation or by any subsequent Act of Parliament, letters patent, decree, scheme, order, instrument, or other authority, and whether it has been made applicable or is applied in the shape of payment to the governing body of any school or any member thereof, or to any teacher or officer of any school, or to any person bound to teach, or to scholars in any school, or their parents, or of buildings, houses, or school apparatus for any school, or otherwise howsoever."

IV.—*Procedure for approving Schemes.*

Schemes to be printed and circulated.

24. When the Commissioners have prepared the draft of a scheme they shall cause it to be printed, and printed copies of it to be sent to the governing body of every endowment to which it relates, and to the vestry clerk of the parish in which such endowment is now applicable, and to the Remembrancer of the City of London, and shall also cause the draft, or a proper abstract of it, to be published and circulated in such manner as they think sufficient for giving information to all persons interested.

Commissioners to receive suggestions respecting schemes.

25. During two months after the first publication of the draft of a scheme, or any longer time which they may appoint, the Commissioners shall receive any objections or suggestions made to them in writing respecting such scheme, and shall duly consider the same.

Schemes to be reprinted and circulated anew.

26. After the expiration of the two months, or such longer time as to the Commissioners may seem proper, the Commissioners shall proceed to revise the scheme, and may, if they think fit, amend the same, and republish it and send copies of it as republished to the persons before mentioned, and shall submit the scheme for the approval of the Committee of Council on Education.

Section 27.

Approval of Committee of Council on Education to schemes.

27. The Committee of Council on Education, as soon as a scheme is submitted to them, shall, before approving the same, cause the scheme to be published and circulated in such manner as they think sufficient for giving information to all persons interested, together with a notice stating that during one month after the first publication of such notice the Committee of Council on Education will receive any objections or suggestions made to them in writing respecting such scheme. After the expiration of the said month the Committee of Council on Education may, if they think fit, approve the scheme or may remit the scheme, with such declaration as the nature of the case seems to them to require, to the Commissioners.

The Committee of Council on Education as soon as they approve a scheme shall forthwith cause the scheme so approved to be published and circulated in such manner as they think sufficient for giving information to all persons interested, together with a notice stating that unless within two months after the publication of the scheme when approved a petition is presented to the Committee of Council on Education, such scheme may be approved by Her Majesty without being laid before Parliament.

During the said two months a petition praying that the scheme may be laid before Parliament may be presented to the Committee of Council on Education by the governing body of any endowment to which the scheme relates, or by not less than twenty inhabitant ratepayers of the parish in which the endowment is now applicable.

Petitions may be addressed to Her Majesty in Council in certain cases.

28. Any person conceiving himself aggrieved by any provision of a scheme, on the ground of its not making due compensation for any vested interest to which he has been declared entitled as aforesaid, may, within two months from the publication of such scheme when approved as aforesaid, petition Her Majesty in Council stating the grounds of the petition and praying Her Majesty to withhold her approval from the whole or any part of the scheme. Her Majesty may refer any such petition for the consideration and advice of three members at the least of Her Privy Council, of whom one shall be a member of the Judicial Committee, and such three members may, if they think fit, admit counsel to be heard in support of and against the petition, and shall have the same power with respect to the costs of all parties to the petition as the High Court of Justice would have if the petition were a proceeding therein for obtaining a scheme.

Section 28. Any petition not proceeded with in accordance with the regulations made with respect to petitions presented to the Judicial Committee of the Privy Council shall be deemed to be withdrawn.

It shall be lawful for Her Majesty by Order in Council to declare that no cause has been shown why she should withhold her approval from the said scheme or to remit it to the Commissioners with such declaration as the nature of the case may require.

As to compensation for vested interests, see sections 7, 12, *ante*, p. 219.

Proceedings where scheme is remitted.

29. Where a scheme is remitted with a declaration the Commissioners may either proceed to prepare another scheme in the matter in the same manner as if no scheme had been previously prepared, or may submit for the approval of the Committee of Council on Education such amendments in the scheme as will bring it into conformity with the declaration.

The Committee may, if they think fit, approve the scheme with such amendments, and the same shall be published and circulated in the same manner and subject to the same right of petition to Her Majesty in Council as is before directed in the case of the approval of a scheme, and so on from time to time as often as occasion may require.

Laying of schemes before Parliament, and approval of Her Majesty in Council.

30. If within the said two months from the publication of the scheme, when approved as aforesaid, no petition praying that the scheme be laid before Parliament has been presented in pursuance of this Act to the Committee of Council on Education, it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme without the same being laid before Parliament.

If any petition praying that the scheme be laid before Parliament has been presented, but no petition to Her Majesty in Council is presented, then the scheme shall be laid before both Houses of Parliament after the expiration of the time for the presentation of a petition to Her Majesty in Council. If a petition is presented to Her Majesty in Council against the scheme, as well as a petition praying that the scheme be laid before Parliament, then the scheme shall be laid before Parliament after any later date at which the petition is withdrawn or Her Majesty in Council has declared as aforesaid that no cause has been shown why she should withhold her approval from the scheme. If Parliament be then sitting the scheme shall be so

laid before it forthwith. If Parliament be not then sitting, the scheme shall be so laid within three weeks after the beginning of the next ensuing session of Parliament; and if such scheme has lain before Parliament for not less than two months during the same session, then, unless an Address has been presented within such two months by one or other of the Houses of Parliament praying Her Majesty to withhold her consent from such scheme or any part thereof, it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme or any part thereof to which such Address does not relate. Section 30.

Exception as to schemes for endowments under 100*l.*

31. Where a scheme relates to an endowment or endowments which or each of which (as the case may be) during the three years preceding the commencement of this Act has had an average annual gross income of not more than one hundred pounds, no petition shall be presented to Her Majesty in Council with reference to such scheme so far as it relates to any such endowment or endowments. The statement of the Commissioners shall be conclusive evidence for the purpose of this section of the income of an endowment.

New scheme on non-approval of scheme.

32. If any scheme, or any part thereof, is not approved by Her Majesty, the Commissioners may thereupon proceed to prepare another scheme in the matter, and so on from time to time as often as occasion may require.

Amendment of schemes.

33. Schemes may be from time to time framed and approved for amending any scheme approved under this Act, and all the provisions of this Act relative to an original scheme shall apply also to an amending scheme, mutatis mutandis.

V.—*Supplemental Provisions.*

Schemes, when to take effect.

34. No scheme shall of itself have any operation, but the same, when and as approved by Her Majesty in Council, shall, from the date specified in the scheme, or if no date is specified then from the date of the Order in Council, have full operation and effect in the same manner as if it had been enacted in this Act.

Where a scheme shall have been so framed as to make it necessary that any further acts should be done in order to carry out the arrangements prescribed by such scheme, the Commissioners shall have power, immediately after the making of such Order in Council, to do and execute, or cause to be done

Section 34. and executed, all such acts and deeds, and all such conveyances and assurances in the law whatsoever, as may in their judgment be necessary for carrying out the provisions of the scheme approved by such order, and for securing the application of the property dealt with by such scheme to the purposes to which such scheme may direct it to be applied.

Effect of scheme.

35. Upon a scheme coming into operation every Act of Parliament, letters patent, statute, deed, instrument, trust, or direction relating to the subject matter of the scheme, and expressed by such scheme to be repealed and abrogated, shall, by virtue of the scheme and of this Act, be repealed and abrogated from the date in that behalf specified, or if no date is specified, from the date of the scheme coming into operation, and all property purporting to be transferred by such scheme shall, without any other conveyance or act in the law (so far as may be), vest in the transferees, and so far as it cannot be so vested shall be held in trust for the transferees.

Evidence of scheme.

36. The Order in Council approving a scheme shall be conclusive evidence that such scheme was within the scope of and made in conformity with this Act, and the validity of such scheme and order shall not be questioned in any legal proceedings whatever.

Quorum of Commissioners.

37. A scheme of the Commissioners shall not be submitted to the Committee of Council on Education unless it has been approved at a meeting of the Commissioners at which there are present not less than three Commissioners, but in all other respects one Commissioner may act under this Act.

Extension of 16 & 17 Vict. c. 137, s. 11, and 18 & 19 Vict. c. 124, ss. 6—9, to Assistant Commissioners.

38. Section eleven of the Charitable Trusts Act, 1853 (which relates to the production of documents by public officers), and sections six, seven, eight, and nine of the Charitable Trusts Act, 1855 (which relate to evidence and the attendance and examination of witnesses) shall extend to the Assistant Commissioners under this Act, as if they were the inspectors mentioned in those sections.

The 16 & 17 Vict. c. 137, s. 11, provides that all officers having the custody of enrolments, decrees, reports, records, and other documents relating to or concerning any charity, shall furnish such copies or extracts as shall be required by the said board, and every inspector, secretary, and other officer of the said board for the time being employed for the purposes of this Act, shall be at liberty, by the authority, and under the directions of the board, and subject to such regulations as the board may make on that behalf, to examine and search the registers and records of every Court of Law and Equity, and every Ecclesiastical Court, and every public registry and office of records, and to take copies of and extracts from any decree or

document, recorded or registered, or deposited therein respectively, for any purpose contemplated by this Act, without fee or other payment in respect thereof. Section 38.

NOTE.

The 18 & 19 Vict. c. 124, s. 6, provides that the board or any commissioner or inspector, such inspector acting under the authority of the board, may require written accounts and statements and answers to inquiries relating to any charity, or the property or income thereof, to be rendered or made to them respectively by all or any of the following persons; that is to say,—

Trustees or persons acting or concerned in the administration of the charity, its property or income, or in the receipt or payment of any monies thereof;

Agents of any such trustees or persons;

Depositaries of any funds or monies of the charity;

Persons in the beneficial receipt of any funds thereof or of any income or stipend therefrom;

Persons having the possession or control of any documents concerning the charity or any property thereof;

And the board or the commissioner or inspector may require the persons rendering or making such account, statement, or answer to verify the same by oath or otherwise, and may administer such oath: Provided always, that nothing herein contained shall extend to give to the said board, or their inspectors, any power of requiring from any person holding or claiming to hold any property whatsoever, adversely to any charity, or fee, or discharged from any charitable trust, or charge, any information, or the production of any deed or document whatever, in relation to the property so held or claimed adversely, or any charitable trust or charge alleged to affect the same.

The 18 & 19 Vict. c. 124, s. 7, provides that the board, or any commissioner or inspector, acting as aforesaid, may require all or any such trustees and persons as aforesaid to attend before them respectively at such times and places as may be reasonably appointed, for the purpose of being examined in relation to the charity, and to answer such questions as may be proposed to them, and to produce upon such examination any documents in their custody or power relating to the charity or the property thereof, and may examine upon oath or otherwise all such persons, and all persons voluntarily attending, and may administer such oath: Provided always, that no person shall be obliged to travel in obedience to any such requisition more than ten miles from his place of abode.

18 & 19 Vict. c. 124, s. 8, provides that all requisitions made under the foregoing authorities shall be made respectively by the order of the board, or by precept under the hand of the commissioner or inspector making the same.

18 & 19 Vict. c. 124, s. 9, provides that any person refusing or wilfully neglecting to comply with any such requisition, or with any order of the board made under the provisions of this Act, or of the principal Act, or destroying or withholding any document required to be produced or transmitted by him, shall be taken to be guilty of a contempt of the High Court of Chancery, and shall be liable to be attached and committed by such court, on summary application by the commissioners to the same court or to any judge thereof, and shall pay such costs attending such contempt as the said court or judge shall direct: Provided always, that the court may at any time discharge, on such terms as it may deem just, any person attached or committed on any such application, or on any application made under section 14 of the principal Act.

Commissioners to have power to direct sale of charity property and

39. Whenever it shall appear to the Commissioners that any part of the charity property and endowments subject to the provisions of this Act, may with advantage be sold and realised, they may direct such property to be sold upon such terms and conditions and to such purchasers as they may think fit, and

Section 39. invest proceeds.

the trustee or trustees for the time being of such property shall effect such sale, which shall require no further sanction than the order of the Commissioners under their seal directing the same, and the proceeds of every such sale shall be paid to the official trustees of charitable funds and invested in their names in Government or parliamentary securities.

Temporary restriction of powers of Charity Commissioners, court, &c.

40. During the continuance of the power of making schemes under this Act, no court or judge shall, with respect to any charity property or endowment which can be dealt with by a scheme under this Act, make any scheme or appoint any new trustees without the consent of the Commissioners.

Persons acquiring interest after passing of Act to be subject to schemes.

41. Every interest, right, privilege, or preference, or increased interest, right, privilege, or preference, which any person may acquire after the passing of this Act in or relative to any charity or endowment which can be dealt with by a scheme under this Act, or in the governing body thereof, or as member of any such governing body, or in or relative to any office, place, employment, pension, compensation, allowance, or emolument in the gift of any such governing body, or paid out of the funds of any such charity or endowment, shall be subject to the provisions of any scheme made under this Act; and the governing body of any such charity or endowment shall not, during the continuance of the power of making schemes under this Act, begin to build, rebuild, alter, or enlarge any buildings connected therewith, except with the written consent of the Commissioners or under the directions of such a scheme; and no moneys arising from any such charity or endowment shall after the passing of this Act be applied to the payment of any poor rate or other rate or public charge whatsoever, or to the payment to any parish official of any salary or remuneration, except so far as he may be entitled to receive the same in respect of duties actually performed in connection with the services of the church, or of services actually rendered in or about the management of any parochial charity, or of duties actually performed in connection with public worship in the church of the parish.

Service of notices.

42. Notices and documents required to be served on or sent to a governing body or vestry clerk for the purposes of this Act may be served or sent by being left at the office, if any, of such governing body or vestry clerk, or being served on or sent to the chairman, secretary, clerk, or other officer of such governing body, or if there is no office, chairman, secretary, clerk, or other

officer, or none known to the Commissioners (after reasonable inquiry), by being publicly advertised in such newspapers as the Commissioners shall think fit, or by being served upon such person or persons and in such manner as the Commissioners shall in their discretion think best calculated to give proper notice to the persons concerned with the management of the endowment dealt with by the scheme. Section 42.

Service by post.

43. Notices and documents required to be served or sent for the purposes of this Act may be served or sent by post, and shall be deemed to be served and received at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notices or documents was properly addressed and put into the post office.

Expenses of carrying out Act.

44. The salaries paid and expenses incurred in carrying into effect this Act shall in the first instance be defrayed out of moneys to be provided by Parliament, but shall be ultimately repaid to the Commissioners of Her Majesty's Treasury out of the sums carried over to a separate account as herein-before directed. The Commissioners shall determine, by orders under their seal, in what proportions such salaries and expenses are to fall upon the several sums so carried over under each scheme, having regard to the respective values of the endowments dealt with by such schemes respectively. If there shall be any surplus of the sums so carried over as aforesaid under each such scheme after making such repayment, such surplus shall form part of the endowments the application whereof is prescribed by each such scheme. If there shall be any deficiency, such deficiency shall be made up to the Commissioners of Her Majesty's Treasury by the New Governing Body hereinafter constituted, out of the funds under their management and control.

As to the carrying over of sums to a separate account, see section 12, *ante*.

Requisitions, &c., to be under seal.

45. All requisitions and directions made by the Commissioners under the authority of this Act shall be made by the order of the Commissioners under their seal.

Orders to be subject to Charitable Trusts Acts.

46. All orders made by the Commissioners shall be enforceable by the same means and be subject to the same provisions as orders of the Board of Charity Commissioners under the Charitable Trusts Acts, 1853 to 1869.

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Commissioners to make annual report to be laid before Parliament.

47. The report of the Commissioners made under section sixty of the Charitable Trusts Act, 1853, shall describe the proceedings of the Commissioners under this Act during the year preceding the thirty-first day of December then last past, and there shall be annexed to such report copies of the schemes approved by Her Majesty in Council under this Act during such year, and of any orders made by the Commissioners during such year under the forty-fourth section of this Act.

VI.—*New Governing Body.*

Establishment of New Governing Body for management of charity funds.

48. There shall be established a New Governing Body under this Act, which shall be called "The Trustees of the London Parochial Charities," and shall be a body corporate, with perpetual succession and a common seal. Such New Governing Body shall administer the property hereinbefore directed to be placed by schemes to be framed by the Commissioners under its administration and management, and shall consist of twenty-one persons, of whom five shall be nominated by the Crown, four by the Corporation of the City of London, and the remainder (four of whom shall, in the first instance, be chosen from among the persons who are now trustees of the Parochial Charities of the City of London) in such manner or by such persons or bodies as the Commissioners shall by scheme provide, regard being had by them to the interests of the various classes of the community who are or may hereafter be interested in the charity property to be administered by such New Governing Body.

Each member shall hold office for six years, but shall be re-eligible.

Every member who shall not have attended a meeting for the period of two years shall vacate his office, but shall be re-eligible.

Commissioners to make regulations for nomination of members of governing body, &c.

49. The Commissioners shall by a scheme make regulations prescribing the time and manner of the nominating or electing of the members of the New Governing Body and regarding the vacating of their office by a certain number of the first members thereof, so as to provide that some of them shall vacate their office at the end of two, others at the end of four, and the rest at the end of six years, and with respect to the filling up of vacancies arising from death or resignation, and generally with respect to the constitution of the New Governing Body, and the conduct by it of its business, and the making by it of regulations or bye-laws, whether varying or merely subsidiary to the rules

and regulations made by the Commissioners. The Commissioners shall also fix the date upon which the functions and powers of the New Governing Body shall commence. Section 49.

Schemes to contain no preference for any religious denomination.

50. In all schemes framed under this Act affecting general charity property which is not expressly limited, by the deed of foundation, to spiritual purposes of any religious denomination no preference shall be shown to any person on account of membership of any church, nor shall conformity to any church be made the condition of enjoying any benefits, nor shall it be made a condition in appointing a master or mistress to any school founded or reformed under this Act, that he or she shall be a member of any church, nor shall endowments under this Act be attached to any institution, admission to which, or to the governing body of which, is limited to the members of any denomination.

Costs of Parliamentary proceedings to be determined by Commissioners.

51. The Commissioners shall ascertain what costs, charges, and expenses have been reasonably incurred by the existing trustees of the City Parochial Charities, or any of them, in relation to this Act, or the Bills of similar name in the sessions of 1881 and 1882, and shall direct the New Governing Body to pay to such trustees, or any two of them, to be chosen for that purpose by the Commissioners the amount of the costs, charges, and expenses so incurred as aforesaid out of the first moneys which shall come to their hands or be placed at the disposal of the said Governing Body.

Saving for endowments at Christ's Hospital.

52. Nothing in this Act shall apply to any endowment or part of any endowment which, or the income whereof, is applicable, or is applied for the benefit of children maintained or educated by the Governors of Christ's Hospital, in the City of London, and presented thereto by any parochial authority in the City of London or otherwise.

Interpretation of terms.

53. In this Act, unless the context otherwise requires—

The term "Metropolis" means the places for the time being constituting the Metropolitan Police District, together with the City of London and the liberties thereof:

The term "governing body" means any body corporate, persons, or person, who hold or holds, or who have or has any power of control or management over, any charity property or endowment dealt with by this Act:

The term "endowment" means every description of property, real, personal, or mixed, which is dedicated to any such

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charitable uses as are referred to in this Act, in whomsoever such property may be vested and in whosesoever name it may be standing, and whether such property is in possession or reversion, or a thing in action :

The term "Committee of Council on Education" means the Lords of the Committee of Her Majesty's Privy Council on Education :

The term "person" includes any body of persons, whether corporate or unincorporate.

Act to be construed together with Charitable Trusts Acts.

54. This Act, so far as is consistent with the tenor thereof, shall be construed together with the Charitable Trusts Acts, 1853 to 1869.

SCHEDULES.

THE FIRST SCHEDULE.

Sections 13, 15.

Saint Andrew, Holborn.
Saint Botolph, Aldgate.
Saint Botolph, Bishopsgate.
Saint Bride, Fleet Street.
Saint Giles, Cripplegate.

THE SECOND SCHEDULE.

Sections 14, 16, 17.

Allhallows, Barking.
Allhallows, Bread Street.
Allhallows the Great.
Allhallows the Less.
Allhallows, Honey-lane.
Allhallows, Lombard Street.
Allhallows, London Wall.
Allhallows, Staining.
Christ Church, Newgate Street.
Saint Alban, Wood Street.
Saint Alphage, London Wall.
Saint Andrew by the Wardrobe.
Saint Andrew Hubbard.
Saint Andrew Undershaft.
Saint Anne and Saint Agnes.
Saint Anne, Blackfriars.
Saint Antholin.
Saint Augustine.
Saint Bartholomew the Great.
Saint Bartholomew the Less.
Saint Bartholomew, Exchange.
Saint Bartholomew, Moor Lane.
Saint Bene't, Fink.
Saint Bene't, Gracechurch.
Saint Bene't, Paul's Wharf.
Saint Bene't, Sherehog.
Saint Botolph, Aldersgate.
Saint Botolph, Billingsgate.
Saint Botolph, Glasshouse Yard.
Saint Christopher le Stocks.
Saint Clement, Eastcheap.
Saint Dionis, Backchurch.
Saint Dunstan in the East.
Saint Dunstan in the West.
Saint Edmund the King and Martyr.
Saint Ethelburga.
Saint Faith under Saint Paul's.
Saint Gabriel, Fenchurch.
Saint George, Botolph Lane.
Saint Gregory by Saint Paul.
Saint Helen, Bishopsgate.
Saint James, Garlickhythe.
Saint James within Aldgate.

Schedule.

Saint John the Baptist, upon Walbrook.
Saint John the Evangelist.
Saint John Zachary.
Saint Katherine Coleman.
Saint Katherine Cree.
Saint Lawrence, Jewry.
Saint Lawrence, Pountney.
Saint Leonard, East Cheap.
Saint Leonard, Foster Lane.
Saint Magnus the Martyr.
Saint Margaret Moyses.
Saint Margaret, Lothbury.
Saint Margaret, New Fish Street.
Saint Margaret Pattens.
Saint Martin, Ludgate.
Saint Martin, Orgars.
Saint Martin, Outwich.
Saint Martin, Pomeroy.
Saint Martin, Vintry.
Saint Mary, Abchurch.
Saint Mary, Aldermanbury.
Saint Mary, Aldermary.
Saint Mary-at-Hill.
Saint Mary, Bothaw.
Saint Mary, Colechurch.
Saint Mary-le-Bow.
Saint Mary Magdalen, Milk Street.
Saint Mary Magdalen, Old Fish Street.
Saint Mary, Mounthaw.
Saint Mary, Somerset.
Saint Mary, Staining.
Saint Mary, Woolchurch Haw.
Saint Mary, Woolnoth.
Saint Matthew, Friday Street.
Saint Michael, Basishaw.
Saint Michael, Cornhill.
Saint Michael, Crooked Lane.
Saint Michael-le-Querne.
Saint Michael, Paternoster Royal.
Saint Michael, Queenhithe.
Saint Michael, Wood Street.
Saint Mildred, Bread Street.
Saint Mildred the Virgin, Poultry.
Saint Nicholas, Acons.
Saint Nicholas, Coleabbey.
Saint Nicholas, Olave.
Saint Olave, Hart Street, with Saint Nicholas in the Shambles.
Saint Olave, Old Jewry.
Saint Olave, Silver Street.
Saint Pancras, Soper Lane.
Saint Peter, Cornhill.
Saint Peter-le-Poer.
Saint Peter, Paul's Wharf.
Saint Peter, West Cheap.
Saint Sepulchre.
Saint Stephen, Coleman Street.
Saint Stephen, Walbrook.
Saint Swithin, London Stone.
Saint Thomas Apostle.
Saint Thomas in the Rolls.
Saint Vedast, Foster.
Holy Trinity the Less.
Holy Trinity, Minories.
Holy Trinity, Gough Square.

THE PUBLIC HEALTH ACT, 1875 (SUPPORT OF SEWERS), AMENDMENT ACT, 1883.

46 & 47 VICT. CHAP. 37.

AN ACT to amend the Public Health Act, 1875, and to make provision with respect to the support of public sewers and sewage works in mining districts.

[25th August, 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction.

1. This Act may be cited as the Public Health Act, 1875, (Support of Sewers), Amendment Act, 1883, and shall be

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construed as one with the Public Health Act, 1875 (in this Act called the Principal Act), as amended by the Acts for the time being in force amending the same.

This Act affects guardians of the poor in their capacity of rural sanitary authority.

This Act was passed soon after, and indeed apparently in consequence of the decision of the Court of Appeal in *Re The Corporation of Dudley*, 8 Q. B. D. 86; 51 L. J. Q. B. 121; 45 L. T. (N.S.) 733; 46 J. P. 340. In that case it was held that the Public Health Act, 1875, imposed upon landowners through whose land a sewer was laid, an obligation to preserve to such sewer *subjacent* support, and gave them a right to immediate compensation for being deprived of the free power of working subjacent mines. The court seemed to doubt whether any obligation was imposed as to *lateral* support, though from the remarks of JESSEL, M.R., in *Roderick* v. *Acton Local Board*, 5 Ch. D. 328; 46 L. J. Ch. 802; 36 L. T. (N.S.) 328; 25 W. R. 403; 41 J. P. 516, it might be inferred that in the opinion of that learned judge there was a right of lateral support for which the landowner was entitled to compensation. The present Act deals with the subject of support, but though the title would imply that it has reference only to sewers, the definition in the next section shows that it has a much wider application. Its effect is briefly as follows:—The local authority are not to be entitled to minerals under any sanitary works constructed by them unless such minerals have been expressly purchased. Such minerals must not be worked if under or near the sanitary works without giving notice to the local authority, who may then take the minerals, making compensation for them. The local authority may, however, define the extent to which they desire support to be left. The amount of compensation is to be settled by arbitration. If the local authority refuse to take the minerals, the owner is to be at liberty to work them, though he must not do so in any unusual manner so as to cause damage. Power is preserved to the owner, if he is prevented from working the mines under the sanitary works, of making mining communications so as to work the mines on either side. Except as aforesaid, a local authority are not hereafter to acquire any right of support, whether vertical or lateral; but the saving clause preserves all rights actually acquired before the passing of the Act. This Act will materially affect the amount of compensation to be paid by a local authority in a mining district, for as by the mere execution of a sanitary work they acquire no right of support, they will not have to pay for it until the owner of the mines is desirous of working them. It is to be noticed, however, that the Act is limited in its application to support from mining lands. The law as to support in other cases remains as it was before the Act passed, that is to say, as declared in *The Corporation of Dudley's Case*, *supra*.

Interpretation.

2. In this Act,—

The expression "sanitary work" means any existing or future building or work constructed by or vested in or under the control of a local authority under the powers or for the purposes of so much of the Principal Act or of any General or Local Act or Provisional Order as relates to the construction or maintenance of any works of sewerage, drainage, sewage disposal, lighting, or water supply, and includes any fixtures, pipes, fittings, or apparatus connected with any such work, and belonging to or used by the local authority:

The expression "support" includes vertical and lateral support:

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The expression "Sanitary Act" means the Act or Provisional Order under the authority of which a sanitary work has been or is constructed or is maintained, whether such Act or Order was passed and confirmed before or after the commencement of this Act:

The expression "person" includes a body corporate.

Application of provisions of the Waterworks Clauses Act, 1847, 10 & 11 Vict. c. 17, with respect to mines, to sanitary works over mines.

3. The provisions of the Waterworks Clauses Act, 1847, sections eighteen to twenty-seven (both inclusive), with respect to mines, shall, in relation to any sanitary work of a local authority, be deemed to be incorporated with this Act and with the Sanitary Act under the authority of which such sanitary work has been or is constructed or is maintained, with the following modifications (that is to say):—

(1) For the purposes of such incorporation the said provisions of the Waterworks Clauses Act, 1847, shall be construed as if the expression "the undertakers" referred to the local authority, and as if the expression "the Special Act" referred to such Sanitary Act and this Act, and as if expressions relating to pipes, conduits, or other works referred to the sanitary work:

(2) The local authority, by or with any notice under the Waterworks Clauses Act, 1847, of willingness to treat for or make compensation, or of intention to prevent or interfere with the working of any mines, may specify and define the nature and extent of support which they require to be left, and any such notice may extend to minerals beyond the distance of forty yards mentioned in the said Act or to such less distance as the local authority think fit:

(3) As regards sanitary works existing at the passing of this Act the local authority shall cause the survey and map referred to in section nineteen of the Waterworks Clauses Act, 1847, to be made within twelve months after the passing of this Act:

(4) The amount of any compensation in respect of support for a sanitary work payable by a local authority under the provisions of the Waterworks Clauses Act, 1847, as incorporated with this Act or the Sanitary Act, together with the costs of and incident to settling the same by arbitration or otherwise, shall be paid, charged, and borne in the same manner, and subject to the same powers and provisions as to borrowing and

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otherwise, as is provided with respect to the expenses of the construction or maintenance of the sanitary work by the Sanitary Act:

(5) A local authority may from time to time make agreements with the owners, lessees, or occupiers of or the persons working any mine for compromising any claim made or to be made in respect of anything done or omitted before the passing of this Act in relation to the matters in this Act mentioned or otherwise for carrying into effect the purposes of this Act in relation to the past or future working of mines.

The provisions of this Act shall apply to every sanitary work as defined in this Act, whether the land on, in, over, or under which such work is situate is or is not vested in or occupied by the local authority, and is or is not wholly or partially dedicated to the public as a street, highway, or public place.

The following is the text of the Waterworks Clauses Act, 1847, 10 & 11 Vict c. 17, ss. 18—27, incorporated by the above section.

XVIII. The undertakers shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the waterworks, unless the same shall have been expressly purchased, and all such mines, excepting as aforesaid shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

XIX. The undertakers shall from time to time within six months from the time at which any pipes, conduits, or underground works shall have been laid down or formed by them, cause a survey and map to be made of the district within which any such pipes or underground works shall be laid, on a scale not less than one foot to a mile, and shall cause to be marked thereon the course and situation of all existing pipes or conduits for the collection, passage, or distribution of water, and underground works belonging to them, in order to show all such underground works within the said district, and shall, within six months from the making of any alterations or additions, cause the said map to be from time to time corrected, and such additions made thereto as may show the line and situation of all such pipes, conduits, and underground works as may be laid down or formed by them from time to time after the passing of the special Act; and such map and plan, or a copy thereof, with the date expressed thereon of the last time when the same shall have been so corrected as aforesaid, shall be kept in the office of the undertakers, and shall be open to the inspection of all persons interested in the same within the said district.

XX. The undertakers shall from time to time within three months from the time at which any such map or plan, or any such correction thereof or addition thereto, shall have been made as aforesaid, deposit with the clerks of the peace in *England* or *Ireland*, and with the sheriff clerks in *Scotland*, of every county, and the town clerk of every burgh in *Scotland*, in which such district or any part thereof may be situate, and also with the parish clerks of the several parishes in *England*, and clerks of the union of the several parishes in *Ireland*, and the schoolmasters of the several parishes in *Scotland* in which such underground works shall be situate, copies of the said map or plan, with all such particulars and all such corrections and

additions as aforesaid, so far as relates to such counties, burghs, and parishes respectively. Section 3. NOTE.

XXI. The said clerks of the peace, sheriff clerks, and town clerks, parish clerks, clerks of the union, and schoolmasters shall receive the said copies of the said map and plan respectively, and shall keep the same, and shall allow all persons interested to inspect the same, and take copies or extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default as is provided in the case of maps and plans deposited under an act passed in the first year of the reign of Her Majesty, intituled *An Act to compel Clerks of the Peace for Counties, and other Persons, to take the custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.*

XXII. Except where otherwise provided for by agreement between the undertakers and other parties, if the owner, lessee, or occupier of any mines or minerals lying under the reservoirs or buildings belonging to the undertakers, or under any of their pipes or works which shall be under ground, and shall be described in the map or plan which shall be so kept and deposited as hereinbefore mentioned, or within the prescribed distance, if any, and if no distance be prescribed within forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give the undertakers notice in writing of his intention so to do thirty days before the commencement of working; and upon the receipt of such notice it shall be lawful for the undertakers to cause such mines to be inspected by any person appointed by them for the purpose, and if it appear to the undertakers that the working of such mines or minerals is likely to damage the said works, and if they be willing to make compensation for such mines to such owner, lessee, or occupier thereof, then he shall not work the same; and if the undertakers and such owner do not agree as to the amount of such compensation the same shall be settled as in other cases of disputed compensation.

XXIII. If before the expiration of such thirty days the undertakers do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines, and to drain the same by means of engines or otherwise, as if this Act and the special Act had not been passed, so that no wilful damage be done to the said works, and so that the said mines be not worked in an unusual manner; and if any damage or obstruction be occasioned to the works of the undertakers by the working of such mines in an unusual manner, the same shall be forthwith repaired or removed (as the case may require), and such damage made good, by the owner, lessee or occupier of such mines or minerals, and at his own expense; and if such repair or removal be not forthwith done, or, if the undertakers shall so think fit, without waiting for the same to be done by such owner, lessee, or occupier, it shall be lawful for the undertakers to execute the same, and recover from such owner, lessee, or occupier the expense occasioned thereby by action in any of the superior courts.

XXIV. If the working of any such mines under the said works of the undertakers or within the above-mentioned distance therefrom be prevented as aforesaid by reason of apprehended injury to such works, it shall be lawful for the respective owners, lessees, and occupiers of such mines to cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain, and work any mines or minerals on each or either side thereof, but no such airway, headway, gateway, or water level shall be of greater dimensions or sections than the prescribed dimensions or sections, and where no dimensions are prescribed eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the said works so as to injure the same.

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XXV. Except where otherwise provided for by agreement, the undertakers shall from time to time pay to the owner, lessee, or occupier of any mines of coal, ironstone, and other minerals, extending so as to lie on both sides of any reservoirs, buildings, pipes, conduits, or other works, all such additional expenses and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands over such mines or minerals by such reservoirs or other works, or of the continuous working of such mines or minerals being interrupted as aforesaid, or by reason of the same being worked under the restrictions contained in this or the special Act, and for any mines or minerals not purchased by the undertakers which cannot be obtained by reason of making and maintaining the said works, or by reason of such apprehended injury from the working thereof as aforesaid; and if any dispute or question shall arise between the undertakers and such owner, lessee, or occupier as aforesaid, touching the price of such minerals the same shall be settled by arbitration in such manner as is provided by the Lands Clauses Consolidation Act if the undertaking shall be situate in *England* or *Ireland*, and by the Lands Clauses Consolidation (*Scotland*) Act if the undertaking shall be situated in *Scotland*.

XXVI. For better ascertaining whether any such mines are being worked or have been worked so as to damage the said works, it shall be lawful for the undertakers, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the said works are situate, and wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith, and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the said works to the parts of such mines which are being worked or about to be worked.

XXVII. Nothing in this or the special Act shall prevent the undertakers from being liable to any action or other legal proceeding to which they would have been liable for any damage or injury done or occasioned to any mines by means or in consequence of the waterworks, in case the same had not been constructed or maintained by virtue of this Act or the special Act.

The following cases illustrate the meaning of the above enactments or have been decided with reference to them, or to the similar provisions of the Railways Clauses Act.

Minerals include freestone: *Bell* v. *Wilson*, L. R. 1 Ch. 303; stone got from quarries: *Micklethwait* v. *Winter*, 6 Ex. 644; granite: *Attorney-General* v. *Welsh Granite Company*, 35 W. R. 617; china clay: *Hext* v *Gill*, L. R. 7 Ch. 712; and see *Midland Railway Company* v. *Checkley*, L. R. 4 Eq. 19; but not common clay forming the surface or subsoil of land: *Glasgow Magistrates* v. *Fairie*, 13 Ap. Cas. 657.

The deposit of the map of the district showing the situation of all existing pipes, is a condition precedent to the right to recover from the owner of minerals lying under the pipes, for damage caused to the pipes by working the minerals: *South Staffordshire Waterworks Company* v. *Mason*, 56 L. J. Q. B. 255; 57 L. T. (N.S.) 116.

It was held with reference to similar provisions in the Railways Clauses Act, that "it was obviously the intention of the legislature to create a new code as to the relation between mine owners and railway companies, where lands were compulsorily taken for the purpose of making a railway. The object of the statute evidently was to get rid of all the ordinary law on the subject, and to compel the owner to sell the surface, and if any mines were so near the surface that they must be taken for the purposes of the railway, to compel him to sell them but not to compel him to sell anything more. The land was to be dealt with just as if there were no mines to be considered, nothing but the surface. That being so, justice obviously requires that when the mine owner thinks it beneficial to him to work his mines,

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and proceeds to do so, he should be just in the same position as if he had never sold any part of the surface at all." Per Lord Cranworth in the *Great Western Railway Company* v. *Bennett*, L. R. 2 H. L. 40.

A railway company under the powers of a special Act, and of the Railways Clauses Act, 1845, bought a piece of land on part of which they made three railways leaving the rest of the land within the triangle formed by the railways, except two small pieces on the west of their lines. The landowner from whom they bought owned the adjoining land on the east. This he afterwards sold, but acquired a right of way over it. He had also bought the two severed pieces on the west. The conveyances to the railway company did not include the minerals under the land:—*Held*, that as under the special Act and under section 80, of the Railways Clauses Act, the landowner when he sold the land was entitled to make passages under the railway from his land on the east, no right of way over the railway for the purpose of working the minerals would be implied, and that he had not now such right of way. *Held*, that being neither "owner, lessee, or occupier of the land to the east he had no right, under section 79 of the Railways Clauses Act, to work the minerals on the land within the triangle by means of passages under the railway; but he might work the minerals from the pieces of the land on the west, and under section 81 get compensation for extra expenses. *Held*, that under section 79 of the Railways Clauses Act, the owner of the minerals might, having lawfully made a communication with the land sold to the railway company, work the minerals by open workings, that being the usual mode of working such minerals in the district where the same were situate: *Midland Railway Company* v. *Miles*, 33 Ch. D. 632.

An owner of minerals under or near a railway is entitled to give notice, under section 78 of the Railways Clauses Act, 1845, of his intention to work them, although he intends to let them, and not to work them himself. But a notice given without any real intention or probability of working or letting the minerals would be invalid and the Court would restrain the owner from acting upon it, Such a notice is not invalid, or unreasonable merely because it includes the minerals under a long extent of railway. The 77 and 78 sections of the Railways Clauses Act, 1845, apply to minerals worked upon by open quarrying as well as those which are got by underground working: *Midland Railway Company* v. *Haunchwood Brick and Tile Company*, 20 Ch. D. 532, approved; *Midland Railway Company* v. *Robinson*, 37 Ch. D. 386.

The claimants were lessees of a coal mine, comprising four seams of coal running beneath land which the corporation had acquired to make a reservoir. The claimants were working three of the seams, and preparing to sink a shaft to work the fourth, called the cannel seam, and they gave notice of their intention to work the seams under, and within the prescribed limits of the land of the corporation, who thereupon gave notice to treat for the purchase of a part of one of the lower seams. An arbitrator found, in a special case stated for the opinion of the court, that the workings of the claimants had not yet approached the reservoir so as to cause any present risk to the mines from it, but that, assuming the corporation to purchase and retain *in situ* the part of the seam for which they had given notice and no other coal, the claimants by reason of the waterworks, and of apprehension of injury therefrom to the cannel seam, could not work or get more than 50 per cent. of the cannel coal under the reservoir, or within 20 yards of its boundary, and that a prudent lessee working without right to compensation, would be compelled by reason of such apprehension of injury to abstain from working or getting more than 50 per cent. of the cannel coal. It was held that on these findings, the arbitrator was not justified in awarding compensation under the Act for the 50 per cent. of the cannel coal which could not be obtained: *Holliday* v. *Mayor &c., of Wakefield*, 20 Q. B. D. 699.

By an Inclosure Act the common lands of a manor, the fee simple of which, with the mines and minerals thereunder and power to work the same, had previously been vested in the lord of the manor, subject to certain rights of common pasture, were inclosed and divided into allotments.

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The Act provided that the lord of the manor should enjoy all mines and minerals, as fully and freely as if the Act had not passed, without paying damages or making satisfaction for so doing, and empowered him to make all convenient ways, and for that purpose to remove fences, trees, or other obstructions. The Act further provided that the annual rental of 500 acres (out of about 20,000) should be set apart to provide for the compensation to which the allottees might thereafter be entitled, any deficiency to be made up by means of a rate levied upon the allottees. Afterwards the plaintiffs, a waterworks company incorporated under an Act of Parliament, which incorporated the Lands Clauses Consolidation Act, 1845, and the Waterworks Clauses Act, 1847, purchased compulsorily from the representative of the allottee, land forming part of one of such allotments, and constructed a reservoir thereon. The defendant, claiming title under the lord of the manor, gave notice to the plaintiffs of his intention to work the coal under such land within forty yards of the reservoir. The plaintiffs did not offer to purchase the minerals, and the defendant worked the coal according to the usual course and practice of mining, and thereby caused damage to the reservoir:—*Held* (by Cave and A. L. Smith, JJ.), that the Inclosure Act did not empower the lord of the manor and his representatives to work the minerals in such a manner as to let down the surface. *Held* (by Cave, J.), that the plaintiffs had purchased the whole of the allottee's interest, namely, the ownership of the surface together with the right of support, and the defendant had only the same right as he had had before the purchase by the plaintiffs, namely, the right to work the minerals, leaving sufficient to support the surface, and therefore the plaintiffs were entitled to recover. *Held* (by A. L. Smith, J.), that, as at the date of the purchase by the plaintiffs the surface and the minerals were vested in different owners, and the plaintiffs had purchased compulsorily from the owner of the surface, and had given no notice to treat in respect of the minerals, all that they were entitled to was the ownership of the surface, without any right of support as against the defendant, and therefore they had no cause of action for damage caused by the working by the defendant of the minerals according to the usual course and practice of mining, and were not entitled to recover: *Consett Waterworks Company* v. *Ritson*, 22 Q. B. D. 318.

With reference to the last clause of the above section it may be observed that though the soil of highways is to a certain extent vested in urban authorities under section 149 of the Public Health Act, 1875, and in county councils under section 11 of the Local Government Act, 1888, these sections do not give to such authorities, the minerals under streets or main roads. See 41 & 42 Vict. c. 77, s. 27, and per James, L. J., in *Rolls* v. *Southwark* (*Vestry of*), 14 Ch. D. 785; 49 L. J. Ch. 691; 43 L. T. (N.S.) 140; 28 W. R. 807; 44 J. P. 680.

Limitation of right to support for sanitary works over mines.

4. Except as in this Act provided, a local authority shall not by reason only of anything contained in the Sanitary Act under the authority of which a sanitary work has been or is constructed or maintained be deemed to have acquired or to be entitled to or to be bound to acquire or make compensation for any right of support for such sanitary work as against any person owning or working or being lessee or occupier of or entitled to work or otherwise interested in any mine; and nothing in such Sanitary Act shall be deemed to have subjected or to subject any such person to any liability to the local authority in respect of damage to a sanitary work caused in or consequent upon the working of any mines in a reasonable and proper manner.

Section 5. Savings.

5. Nothing in this Act shall be construed to repeal, invalidate, or affect any express enactment in a Sanitary or other Act with respect to rights of support for sanitary works, or any agreement made before the passing of this Act with respect to such rights, or to affect any action, arbitration, or other legal proceedings concluded before or pending at the passing of this Act.

Where any right of support has been acquired before the passing of this Act by a local authority in respect of any sanitary work, and no compensation is at the passing of this Act recoverable in respect of such right, nothing in this Act shall be construed to apply to the work in respect of which such right has been acquired, or operate to deprive the local authority of such right or to entitle any person to any compensation in respect thereof, to which such person would not have been entitled if this Act had not been passed.

THE TRIAL OF LUNATICS ACT, 1883.

46 & 47 VICT. CHAP. 38.

An Act to amend the Law respecting the Trial and Custody of Insane Persons charged with offences.

[25th August, 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the Trial of Lunatics Act, 1883.

Special verdict where accused found guilty, but insane at date of act or omission charged, and orders thereupon.

2.—(1) Where in any indictment or information any act or omission is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane, so as not to be responsible, according to law, for his actions at the time when the act was done or omission made, then, if it appears to the jury before whom such person is tried that he did the act or made the omission charged, but was insane as aforesaid at the time when he did or made the same, the jury shall return a special verdict to the effect that the accused was guilty of the act or omission charged

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against him, but was insane as aforesaid at the time when he did the act or made the omission.

(2) Where such special verdict is found, the Court shall order the accused to be kept in custody as a criminal lunatic, in such place and in such manner as the Court shall direct till Her Majesty's pleasure shall be known; and it shall be lawful for Her Majesty thereupon, and from time to time, to give such order for the safe custody of the said person during pleasure, in such place and in such manner as to her Majesty may seem fit.

As to criminal lunatics, see 47 & 48 Vict. c. 64, *post*. Sub-sect. (3) provided that two justices might enquire into the lunatic's settlement, and make an order on the union of settlement for his maintenance; but this provision was repealed by 47 & 48 Vict. c. 64, which provides for the maintenance of criminal lunatics out of moneys provided by parliament, and for his becoming a pauper lunatic in certain cases.

* * * * *''

(4) All provisions in any existing Act or in any rules or orders made in pursuance of any existing Act, having reference to a person or persons acquitted on the ground of insanity, shall apply to a person or persons in respect of whom a special verdict is found under this Act.

Extent of Act.

3.—(1) This Act shall extend to Ireland with the following modifications, that is to say, the words "the Lord Lieutenant" shall be substituted for "Her Majesty," and the words "the pleasure of the Lord Lieutenant" for "Her Majesty's pleasure."

(2) This Act shall not extend to Scotland.

Repeal.

4.—(1) The enactments mentioned in the schedule to this Act are hereby repealed to the extent mentioned in the third column thereof, but this repeal shall not affect any order made or thing done in pursuance of any enactment so repealed; and any such order may be carried into effect, revoked, or varied, as if made under this Act.

(2) Any unrepealed enactment referring to any enactment hereby repealed, shall be construed to apply to the corresponding provisions of this Act.

SCHEDULE.

Schedule.

ENACTMENTS REPEALED.

Session and Chapter.	Title.	Extent of Repeal.
39 & 40 Geo. 3, c. 94 -	An Act for the safe custody of insane persons charged with offences.	Section one.
1 & 2 Geo. 4, c. 33 -	An Act to make more effectual provision for the establishment of asylums for the lunatic poor, and for the custody of insane persons charged with offences in Ireland.	Section sixteen.
3 & 4 Vict. c. 54 - -	An Act for making further provision for the confinement and maintenance of insane prisoners.	Section three.

THE CORRUPT AND ILLEGAL PRACTICES PREVENTION ACT, 1883.

46 & 47 VICT. CHAP. 51.

An Act for the better prevention of Corrupt and Illegal Practices at Parliamentary Elections.

[25th August, 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

The only sections of this Act which require to be noticed in this work are those which disqualify persons guilty of corrupt practices, &c., for being elected, or for voting at elections for public offices, such as guardians of the poor, &c.

* * * * *

Punishment of candidate found, on election petition, guilty personally of corrupt practices. 31 & 32 Vict. c. 125.

4. Where upon the trial of an election petition respecting an election for a county or borough the election court, by the report made to the Speaker in pursuance of section eleven of the Parliamentary Elections Act, 1868, reports that any corrupt practice other than treating or undue influence has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, or

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that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever being elected to or sitting in the House of Commons for the said county or borough, and if he has been elected, his election shall be void; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted on an indictment of a corrupt practice.

As to these incapacities see section 6, *post*.

* * * * *

Punishment of person convicted on indictment of corrupt practices.

6.—(1) A person who commits any corrupt practice other than personation, or aiding, abetting, counselling, or procuring the commission of the offence of personation, shall be guilty of a misdemeanor, and on conviction on indictment shall be liable to be imprisoned, with or without hard labour, for a term not exceeding one year, or to be fined any sum not exceeding two hundred pounds.

(2) A person who commits the offence of personation, or of aiding, abetting, counselling, or procuring the commission of that offence, shall be guilty of felony, and any person convicted thereof on indictment shall be punished by imprisonment for a term not exceeding two years, together with hard labour.

(3) A person who is convicted on indictment of any corrupt practice shall (in addition to any punishment as above provided) be not capable during a period of seven years from the date of his conviction:

(*a*) Of being registered as an elector or voting at any election in the United Kingdom, whether it be a parliamentary election or an election for any public office within the meaning of this Act; or

(*b*) Of holding any public or judicial office within the meaning of this Act, and if he holds any such office the office shall be vacated.

(4) Any person so convicted of a corrupt practice in reference to any election shall also be incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his conviction, and if at that date he has been elected to the House of Commons his election shall be vacated from the time of such conviction.

For the definitions of "public office" and "judicial office," see section 64, *post*.

* * * * *

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10. A person guilty of an illegal practice, whether under the foregoing sections or under the provisions hereinafter contained in this Act, shall on summary conviction be liable to a fine not exceeding one hundred pounds and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at any election (whether it be a parliamentary election or an election for a public office within the meaning of this Act) held for or within the county or borough in which the illegal practice has been committed.

Punishment on conviction of illegal practice.

For the definition of a "public office," see section 64, *post*.

* * * * *

21.—(1) A person guilty of an offence of illegal payment, employment or hiring shall, on summary conviction, be liable to a fine not exceeding one hundred pounds.

(2) A candidate or an election agent of a candidate who is personally guilty of an offence of illegal payment, employment, or hiring shall be guilty of an illegal practice.

Punishment of illegal payment, employment, or hiring.

As to the disqualification consequent upon conviction for an illegal practice, see section 10, *ante*.

* * * * *

37. Every person who, in consequence of conviction or of the report of any election court or election commissioners under this Act, or under the Corrupt Practices (Municipal Elections) Act, 1872, or under Part IV. of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to corrupt practices at an election for any public office, has become incapable of voting at any election, whether a parliamentary election or an election to any public office, is prohibited from voting at any such election, and his vote shall be void.

Prohibition of disqualified persons from voting.
35 & 36 Vict. c. 60.
45 & 46 Vict. c. 50.

As to the meaning of the term "public office," see section 64, *post*.

* * * * *

39.—(1) The registration officer in every county and borough shall annually make out a list containing the names and description of all persons who, though otherwise qualified to vote at a parliamentary election for such county or borough respectively, are not capable of voting by reason of having after the commencement of this Act been found guilty of a corrupt or illegal practice on conviction or by the report of any election court or election commissioners whether under this Act, or under Part IV.

List in register of voters of persons incapacitated for voting by corrupt or illegal practices.
45 & 46 Vict. c. 50.

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of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to a parliamentary election or an election to any public office; and such officer shall state in the list (in this Act referred to as the corrupt and illegal practices list), the offence of which each person has been found guilty.

(2) For the purpose of making out such list he shall examine the report of any election court or election commissioners who have respectively tried an election petition or inquired into an election where the election (whether a parliamentary election or an election to any public office) was held in any of the following places; that is to say,

(*a*) If he is the registration officer of a county, in that county, or in any borough in that county; and

(*b*) If he is the registration officer of a borough, in the county in which such borough is situate, or in any borough in that county.

(3) The registration officer shall send the list to the overseers of every parish within his county or borough, together with his precept, and the overseers shall publish the list together with the list of voters, and shall also, in the case of every person in the corrupt and illegal practices list, omit his name from the list of persons entitled to vote, or, as circumstances require, add "objected" before his name in the list of claimants or copy of the register published by them, in like manner as is required by law in any other cases of disqualification.

(4) Any person named in the corrupt and illegal practices list may claim to have his name omitted therefrom, and any person entitled to object to any list of voters for the county or borough may object to the omission of the name of any person from such list. Such claims and objections shall be sent in within the same time and be dealt with in like manner, and any such objection shall be served on the person referred to therein in like manner, as nearly as circumstances admit, as other claims and objections under the enactments relating to the registration of parliamentary electors.

(5) The revising barrister shall determine such claims and objections and shall revise such list in like manner as nearly as circumstances admit as in the case of other claims and objections, and of any list of voters.

(6) Where it appears to the revising barrister that a person not named in the corrupt and illegal practices list is subject to have his name inserted in such list, he shall (whether an objec-

tion to the omission of such name from the list has or has not been made, but) after giving such person an opportunity of making a statement to show cause to the contrary, insert his name in such list and expunge his name from any list of voters. Section 39.

(7) A revising barrister in acting under this section shall determine only whether a person is incapacitated by conviction or by the report of any election court or election commissioners, and shall not determine whether a person has or not been guilty of any corrupt or illegal practice.

(8) The corrupt and illegal practices list shall be appended to the register of electors, and shall be printed and published therewith wherever the same is printed or published.

A similar list is made out under 47 & 48 Vict. c. 70, s. 24, *post*.
For the definition of the "registration officer," see section 64, *post*.

* * * * *

64. In this Act, unless the context otherwise requires— General interpretation of terms.

The expression "election" means the election of a member or members to serve in Parliament:

The expression "election petition" means a petition presented in pursuance of the Parliamentary Elections Act, 1868, as amended by this Act: 31 & 32 Vict. c. 125.

* * * * *

The expression "registration officer" means the clerk of the peace in a county, and the town clerk in a borough, as respectively defined by the enactments relating to the registration of parliamentary electors:

The expression "elector" means any person whose name is for the time being on the register roll or book containing the names of the persons entitled to vote at the election with reference to which the expression is used:

The expression "register of electors" means the said register roll or book:

* * * * *

The expression "public office" means any office under the Crown or under the charter of a city or municipal borough or under the Acts relating to Municipal Corporations or to the Poor Law, or under the Elementary Education Act, 1870, or under the Public Health Act, 1875, or under any Acts amending the above-mentioned Acts, or under any other Acts for the time being in force (whether passed before or after the commencement of this Act) relating to 33 & 34 Vict. c. 75. 38 & 39 Vict. c. 55.

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local government, whether the office is that of mayor, chairman, alderman, councillor, guardian, member of a board, commission, or other local authority in any county, city, borough, union, sanitary district, or other area, or is the office of clerk of the peace, town clerk, clerk or other officer under a council, board, commission, or other authority, or is any other office, to which a person is elected or appointed under any such charter or Act as above-mentioned, and includes any other municipal or parochial office; and the expressions "election," "election petition," "election court," and "register of electors," shall, where expressed to refer to an election for any such public office, be construed accordingly:

The expression "judicial office" includes the office of justice of the peace and revising barrister:

The term "public office" will therefore include the office of guardian, overseer, assistant overseer, member or officer of a school board or sanitary authority, &c.

* * * * *

THE BANKRUPTCY ACT, 1883.

46 & 47 VICT. CHAP. 52.

AN ACT to amend and consolidate the Law of Bankruptcy.
[25th August, 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. This Act may be cited as the Bankruptcy Act, 1883.

* * * * *

Effect of order of discharge.

30.—(1) An order of discharge shall not release the bankrupt from any debt on a recognizance nor from any debt with which the bankrupt may be chargeable at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or

other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence; and he shall not be discharged from such excepted debts unless the Treasury certify in writing their consent to his being discharged therefrom. An order of discharge shall not release the bankrupt from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party, nor from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party.

(2) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

An order of discharge has been held to be a bar to proceedings for the recovery of a sum certified by an auditor under 7 & 8 Vict. c. 101, s. 32, though the sum was, at the date of the decision, recoverable as a penalty: *Reg.* v. *Master*, L. R. 4 Q. B. 285; 38 L. J. M. C. 73; 19 L. T. (N.S.) 733; 17 W. R. 442; 33 J. P. 436.

The order of discharge will also operate as a bar to the recovery of rates provable in the bankruptcy. See the notes to section 40, *post*.

(3) An order of discharge shall be conclusive evidence of the bankruptcy, and of the validity of the proceedings therein, and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

(4) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the bankrupt or was jointly bound or had made any joint contract with him, or any person who was surety or in the nature of a surety for him.

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PART II.

DISQUALIFICATIONS OF BANKRUPT.

Disqualifications of bankrupt.

32.—(1) Where a debtor is adjudged bankrupt he shall, subject to the provisions of this Act, be disqualified for—

(*a*) Sitting or voting in the House of Lords, or on any committee thereof, or being elected as a peer of Scotland or Ireland to sit and vote in the House of Lords;

(*b*) Being elected to, or sitting or voting in, the House of Commons, or on any committee thereof;

(*c*) Being appointed or acting as a justice of the peace;

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(*d*) Being elected to or holding or exercising the office of mayor, alderman, or councillor;

(*e*) Being elected to or holding or exercising the office of guardian of the poor, overseer of the poor, member of a sanitary authority, or member of a school board, highway board, burial board, or select vestry.

(2) The disqualifications to which a bankrupt is subject under this section shall be removed and cease if and when,—

(*a*) The adjudication of bankruptcy against him is annulled; or

(*b*) He obtains from the court his discharge with a certificate to the effect that his bankruptcy was caused by misfortune without any misconduct on his part.

The court may grant or withhold such certificate as it thinks fit, but any refusal of such certificate shall be subject to appeal.

(3) The disqualifications imposed by this section shall extend to all parts of the United Kingdom.

As to the power of the court to annul an adjudication, see sections 35, 36, *post*.

The editor of a newspaper was indicted for libel and sentenced to three months imprisonment, and to pay the costs of the prosecution. During the time he was in gaol all his property was sold under a bill of sale given for the purposes of the defence, and he subsequently presented a bankruptcy petition. It was held that the county court judge was right in refusing to grant a certificate that the bankruptcy was caused by misfortune without any misconduct on the bankrupt's part: *Ex parte Burgess, In re Burgess*, 57 L. T. (N.S.) 200; 35 W. R. 702.

The debtor instituted a suit for divorce against his wife and co-respondents on the ground of her adultery. At the trial the jury found that the wife had not committed adultery, and the petition was dismissed, and the debtor was ordered to pay the costs of his wife and the co-respondents. The means of the debtor, both before and after the commencement of the proceedings, were wholly insufficient to pay these costs, and he was adjudged a bankrupt on the petition of one of the co-respondents. It was held that the bankruptcy of the debtor had not been caused by misfortune without misconduct on his part within the meaning of this section, and that he was not entitled to a certificate: *Re Lord Colin Campbell*, 20 Q. B. D. 816; 59 L. T. (N.S.) 194; 36 W. R. 582.

* * * * *

Vacating of municipal and other offices.

34. If a person is adjudged bankrupt whilst holding the office of mayor, alderman, councillor, guardian, overseer, or member of a sanitary authority, school board, highway board, burial board, or select vestry, his office shall thereupon become vacant.

Power for court to

35.—(1) Where in the opinion of the court a debtor ought not to have been adjudged bankrupt, or where it is proved to

the satisfaction of the court that the debts of the bankrupt are paid in full, the court may, on the application of any person interested, by order, annul the adjudication. Section 35. annul adjudication in certain cases.

(2) Where an adjudication is annulled under this section all sales and dispositions of property and payments duly made, and all acts theretofore done, by the official receiver, trustee, or other person acting under their authority, or by the court, shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as the court may appoint, or in default of any such appointment revert to the debtor for all his estate or interest therein on such terms and subject to such conditions, if any, as the court may declare by order.

(3) Notice of the order annulling an adjudication shall be forthwith gazetted and published in a local paper.

36. For the purposes of this Part of this Act, any debt disputed by a debtor shall be considered as paid in full, if the debtor enters into a bond, in such sum and with such sureties as the court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into court. Meaning of payment of debts in full.

THE FACTORY AND WORKSHOP ACT, 1883.

46 & 47 VICT. CHAP. 53.

AN ACT to amend the Law relating to certain Factories and Workshops. [25th August, 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Factory and Workshop Act, 1883. Short title.

This Act is included in the present work only to the extent it concerns guardians of the poor acting as the rural sanitary authority.

* * * * *

Section 15.

Bakehouses.

Regulations for new bakehouses.

15. It shall not be lawful to let or suffer to be occupied as a bakehouse, or to occupy as a bakehouse, any room or place which was not so let or occupied before the first day of June, one thousand eight hundred and eighty-three, unless the following regulations are complied with:

(i.) No watercloset, earthcloset, privy, or ashpit, shall be within or communicate directly with the bakehouse;

(ii.) Any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern for supplying water to a watercloset;

(iii.) No drain or pipe for carrying off fœcal or sewage matter shall have an opening within the bakehouse.

Any person who lets or suffers to be occupied or who occupies any room or place as a bakehouse in contravention of this section shall be liable, on summary conviction, to a fine not exceeding forty shillings, and to a further fine not exceeding five shillings for every day during which any room or place is so occupied after a conviction under this section.

Penalty for bakehouse being unfit on sanitary grounds for use as a bakehouse.

16. Where a court of summary jurisdiction is satisfied on the prosecution of an inspector or a local authority that any room or place used as a bakehouse (whether the same was or was not so used before the passing of this Act) is in such a state as to be on sanitary grounds unfit for use or occupation as a bakehouse, the occupier of the bakehouse shall be liable, on summary conviction, to a fine not exceeding forty shillings, and on a second or any subsequent conviction, not exceeding five pounds.

The court of summary jurisdiction, in addition to or instead of inflicting such fine, may order means to be adopted by the occupier, within the time named in the order, for the purpose of removing the ground of complaint. The court may, upon application, enlarge the time so named, but if, after the expiration of the time as originally named or enlarged by subsequent order, the order is not complied with, the occupier shall be liable to a fine not exceeding one pound for every day that such non-compliance continues.

Enforcement of law as to retail bakehouses by local authorities.

17.—(1) As respects every retail bakehouse, the provisions of this part of this Act and of sections three, thirty-three, thirty-four, and thirty-five of the Factory and Workshop Act, 1878 (which relate to cleanliness, ventilation, overcrowding, and other sanitary conditions), shall be enforced by the local authority of

the district in which the retail bakehouse is situate, and not by an inspector under the Factory and Workshop Act, 1878; and for the purposes of this section the medical officer of health of the local authority shall have and exercise all such powers of entry, inspection, taking legal proceedings, and otherwise, as an inspector under the Factory and Workshop Act, 1878. Section 17.

The sections above referred to are as follows:—

III. A factory and a workshop shall be kept in a cleanly state and free from effluvia arising from any drain, privy, or other nuisance.

A factory or workshop shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed therein, and shall be ventilated in such a manner as to render harmless, so far as is practicable, all the gases, vapours, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health.

A factory or workshop in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.

XXXIII. For the purpose of securing the observance of the requirements of this Act as to cleanliness in every factory and workshop, all the inside walls of the rooms of a factory or workshop, and all the ceilings or tops of such rooms (whether such walls, ceilings, or tops be plastered or not), and all the passages and staircases of a factory or workshop, if they have not been painted with oil or varnished once at least within seven years, shall be limewashed once at least within every fourteen months, to date from the period when last limewashed; and if they have been so painted or varnished, shall be washed with hot water and soap once at least within every fourteen months, to date from the period when last washed.

A factory or workshop in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.

Where it appears to a Secretary of State that in any class of factories or workshops, or parts thereof, the regulations in this section are not required for the purpose of securing therein the observance of the requirements of this Act as to cleanliness, or are by reason of special circumstances inapplicable, he may, if he thinks fit, by order made under this part of this Act, grant to such class of factories or workshops, or parts thereof, a special exception that the regulation in this section shall not apply thereto.

XXXIV. Where a bakehouse is situate in any city, town, or place containing, according to the last published census for the time being, a population of more than five thousand persons, all the inside walls of the rooms of such bakehouse, and all the ceilings or tops of such rooms (whether such walls, ceilings, or tops be plastered or not), and all the passages and staircases of such bakehouse, shall either be painted with oil or varnished, or be limewashed, or be partly painted or varnished and partly limewashed; where painted with oil or varnished there shall be three coats of paint or varnish, and the paint or varnish shall be renewed once at least in every seven years, and shall be washed with hot water and soap once at least in every six months; where limewashed the limewashing shall be renewed once at least in every six months.

A bakehouse in which there is any contravention of this section shall be deemed not to be kept not in conformity with this Act.

XXXV. Where a bakehouse is situate in any city, town, or place containing, according to the last published census for the time being, a population of more than five thousand persons, a place on the same level

Section 17. NOTE.

with the bakehouse, and forming part of the same building, shall not be used as a sleeping place, unless it is constructed as follows; that is to say,

unless it is effectually separated from the bakehouse by a partition extending from the floor to the ceiling; and

unless there be an external glazed window of at least nine superficial feet in area, of which at the least four-and-a-half superficial feet are made to open for ventilation.

Any person who lets or occupies or continues to let or knowingly suffers to be occupied any place contrary to this section shall be liable to a fine not exceeding, for the first offence, twenty shillings, and for every subsequent offence five pounds.

The powers of an inspector under the Act of 1878 are contained in sections 67—72 of that Act.

(2) If any child, young person, or woman is employed in any retail bakehouse, and the medical officer of the local authority becomes aware thereof, he shall forthwith give written notice thereof to the factory inspector for the district.

(3) An inspector under the Factory and Workshop Act, 1878, shall not, as respects any retail bakehouse, exercise the powers of entry and inspection conferred by that Act, unless he has notice or reasonable cause to believe that a child, young person, or woman is employed therein.

Construction of Act and definitions. 41 & 42 Vict. c. 16.

18. This Act shall be construed as one with the Factory and Workshop Act, 1878; and in this Act, unless the context otherwise requires,—

* * * * *

The expression "retail bakehouse" means any bakehouse or place, the bread, biscuits, or confectionary baked in which are not sold wholesale but by retail in some shop or place occupied together with such bakehouse:

The expression "local authority" means, as respects the City of London and the liberties thereof, the Commissioners of Sewers; as respects the parishes and districts mentioned in the Schedules A. and B. annexed to the Metropolis Management Act, 1855, and any parish to which the said Act may be extended by Order in Council in manner in the said Act provided, the vestries and district boards elected under the said Act; and as respects any urban sanitary district, the urban sanitary authority, and as respects any rural sanitary district, the rural sanitary authority, within the meaning of the Public Health Act, 1875.

18 & 19 Vict. c. 120.

* * * * *

Preamble.

THE EPIDEMIC AND OTHER DISEASES PREVENTION ACT, 1883.

46 & 47 VICT. CHAP. 59.

AN Act to make better provision for the Prevention of outbreaks of formidable epidemic, endemic, or infectious diseases, and to amend the Public Health Act, England, 1875, and the Public Health Act, Ireland, 1878.

[25th August, 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Epidemic and other Diseases Prevention Act, 1883.

Extension of borrowing powers for preventing disease. 38 & 39 Vict. c. 55. 41 & 42 Vict. c. 52.

2. Whenever any part of England or of Ireland appears to be threatened with or affected by any formidable epidemic, endemic, or infectious disease, and the Local Government Board, England, under the provisions of the Public Health Act, England, 1875, or the Local Government Board, Ireland, under the provisions of the Public Health Act, Ireland, 1878, make regulations for all or any of the following purposes, namely:

(1) For the speedy interment of the dead.

(2) For house to house visitation.

(3) For the provision of medical aid and hospital accommodation; and

(4) For the promotion of cleansing, ventilation, and disinfection, and for guarding against the spread of disease.

The purposes named in the said regulations shall be deemed to be purposes for which sanitary authorities may borrow money, and the local authorities in England, and the sanitary authorities in Ireland, charged with the carrying out of such regulations, may borrow, and the Public Works Loan Commissioners in England and the Board of Public Works in Ireland may lend money to such authorities, as if such purposes were "works" for which loans may be granted under the Public Health Act, England, 1875, and the Public Health Act, Ireland, 1878.

Section 2. Such loans may be made forthwith and without any preliminary public notice or inquiry, if it appear to the Local Government Board desirable in order to the prompt and effective execution of such regulations.

The provisions of the Public Health Act, 1875, as to borrowing money, are contained in sections 233—244. For these sections and the provisions of the Public Works Loans Acts, see *Lumley's Public Health*, 3rd edit., pp. 307—318.

The sanitary authorities referred to in the section include guardians acting as rural sanitary authorities.

* * * * *

THE VALUATION (METROPOLIS) AMENDMENT ACT, 1884.

47 VICT. CHAP. 5.

An Act to amend the Valuation (Metropolis) Act, 1869, by giving greater facilities for appeal to owners and lessees of houses paying rates and taxes in the place of the occupiers.

[28th March, 1884.]

32 & 33 Vict. c. 67. WHEREAS the Valuation (Metropolis) Act, 1869, does not sufficiently provide for objections to and appeals against valuation lists in the case of owners and lessees who by contract or arrangement pay tenants rates and taxes, more especially when such houses are subdivided into tenements separately rated as hereditaments in such valuation lists:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction. **1.** This Act may be cited as the Valuation (Metropolis) Amendment Act, 1884, and shall be read and construed as one Act with the Valuation (Metropolis) Act, 1869 (hereinafter called the principal Act).

The Valuation (Metropolis) Act, 1869, is the 32 & 33 Vict. c. 67.

Enabling owners and lessees to appeal. **2.** Section seventy of the principal Act is hereby repealed, and in lieu thereof it is enacted as follows: Where the owner or lessee of any hereditament is liable to be assessed for any rate

Section 2.

or tax in the place of the occupier or tenant, or does in fact pay any such rate or tax in his place under any contract or arrangement with him, such owner or lessee shall for the purposes of this Act and the Acts incorporated therewith be deemed to be the occupier of such hereditament, and the person referred to as the ratepayer in sections nineteen and thirty-two of the principal Act, and the person who is to make to the overseers of his parish the statement or return referred to in the fifty-fifth section of the principal Act.

Provided, that any form of return, order, notice, or document required to be given to or served on the occupier under the principal Act shall, except where the owner or lessee is liable to be assessed to or to pay any rate or tax in the place of the occupier, be deemed to be sufficiently given or served, notwithstanding this Act, if addressed to such occupier and left on the premises to which the return, order, notice, or document relates.

The 32 & 33 Vict. c. 67, s. 19, provides that any ratepayer may, if he feel aggrieved by any decision of the assessment committee on an objection made with respect to the unfairness or incorrectness of the valuation of any hereditament included in such list, but not otherwise, appeal against such decision to the special sessions.

By section 32, any ratepayer who may feel aggrieved by any decision of the assessment committee, on an objection made before them to which he was a party, or by any decision of special sessions, whether he was a party or not, may appeal against such decision to the assessment sessions. Any ratepayer in the metropolis or in the county in which the parish to which the appeal relates is situate may appeal to the assessment sessions if he feel aggrieved by reason (1) of the total of the gross value of any parish being too high or too low; (2) of the total of the rateable value of any parish being too high or too low; (3) of there being no approved valuation list for some parish.

By section 55 it is provided that in the first year after the passing of this Act, and in every subsequent year in which a new valuation list is made, or in the month of March preceding any such year, every person who is liable to be charged with any rate or tax in respect of which the valuation list is made conclusive shall, when required, make to the overseers of his parish such statement or return as a person chargeable under the Income Tax Act and Acts amending the same is bound to make.

One notice or objection may include one or more separately assessed hereditaments.

3. Where any occupier or ratepayer, or any owner or lessee deemed to be an occupier or ratepayer within the meaning of section two of this Act, shall object to the valuation list in respect of any hereditaments, whether consisting of a house or houses subdivided into tenements separately assessed as hereditaments or of separate houses or tenements not so subdivided, it shall be lawful for him to include in any one notice made in pursuance of section thirty-three of the principal Act or otherwise, or in any one objection, appeal, or other proceeding under

Section 3. the principal Act and the Acts incorporated therewith, the whole or any one or more of the hereditaments separately assessed and comprised in one valuation list of which he is or is deemed to be the occupier or ratepayer.

The 32 & 33 Vict. c. 67, s. 33, relates to notices of appeals to special or assessment sessions. Such notice must specify the correction which the appellant desires to have made in the valuation list. The section also prescribes the persons upon whom the notice must be served.

THE PUBLIC LIBRARIES ACT, 1884.

47 & 48 VICT. CHAP. 37.

An Act to amend the Public Libraries Acts.

[28th July, 1884.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power of council board, &c., to accept parliamentary grant.

1. Whereas doubts have arisen as to whether authorities acting under the Public Libraries Acts have power to fulfil the conditions required for a parliamentary grant in aid of the establishment of a school of science and art, and it is expedient to remove such doubts: It is therefore hereby declared and enacted that,—

Where any authority acting under the Public Libraries Acts accepts a grant out of moneys provided by Parliament from any Committee of the Privy Council on Education towards the purchase of the site, or the erection, enlargement, or repair of any school for science and art, or school for science, or school for art, or of the residence of any teacher in such school, or towards the furnishing of any such school, such authority shall have power to accept such grant upon the conditions prescribed for the acceptance thereof by the said Committee, and to execute such instruments as may be required by the said Committee for carrying into effect such conditions, and upon payment of the grant shall, together with their successors, be bound by such conditions and instrument, and have power and be bound to fulfil and observe the same.

The authorities acting under the Public Libraries Acts are the council of a borough, the local board or improvement commissioners in an urban

district other than a borough, the commissioners elected by the vestry in a parish not in an urban district (18 & 19 Vict. c. 70, ss. 4—8; 29 & 30 Vict. c. 114, s. 2; 50 & 51 Vict. c. 22, s. 9, *post*); the district board or vestry in the metropolis (50 & 51 Vict. c. 22, s. 10); commissioners for joint parishes (52 & 53 Vict. c. 9, *post*).

Section 1.
NOTE.

Explanation of 18 & 19 Vict. c. 70, s. 18, 18 & 19 Vict. c. 70, s. 9, and 30 & 31 Vict. c. 37, s. 10.

2. Whereas section eighteen of the Public Libraries Act, 1855, as regards England, and section nine of the Public Libraries Act (Ireland), 1855, as regards Ireland, provide for the erection of buildings "suitable for public libraries, or museums, or both, or for schools for science or art":

And whereas section ten of the Public Libraries Act (Scotland), 1867, provides for the erection of buildings "suitable for public libraries, art galleries, or museums, or each respectively," and doubts are entertained as to the meaning of those provisions: Now, therefore, it is hereby declared and enacted that—

Buildings may under the said sections be erected for public libraries, public museums, schools for science, art galleries, and schools for art, or for any one or more of those objects.

Power to establish library, museum, or school for science or art in connexion with any of the others of them.

3.—(1) Where any of the following institutions, namely, a public museum, a public library, a school for science and art, a school for science, a school for art, or an art gallery has been established either before or after the passing of this Act under the Public Libraries Acts, or any of them, there may at any time be established in connexion therewith any other of the said institutions without any further proceedings being taken under the said Acts.

(2) Section ten of the Public Libraries Amendment Act (England and Scotland), 1866, and section seventeen of the Public Libraries Act (Scotland), 1867, are hereby repealed, without prejudice to anything done under those sections.

Definitions.

4. In this Act,—

The expression "Public Libraries Acts" means as respects England, Scotland, and Ireland respectively, the Acts mentioned in the first, second, and third parts respectively of the schedule to this Act.

The expression "authority acting under the Public Libraries Acts" means the council, board, magistrates, or commissioners acting in execution of the said Public Libraries Acts.

Section 5.

Short titles.

5. This Act may be cited as the Public Libraries Act, 1884.

The Acts mentioned in the first part of the schedule to this Act may be cited together with this Act as the Public Libraries (England) Acts, 1855 to 1884.

* * * * *

SCHEDULE.

PART I.

Public Libraries (England) Acts.

Session and Chapter.	Title.
18 & 19 Vict. c. 70 -	The Public Libraries Act, 1855.
29 & 30 Vict. c. 114 -	The Public Libraries Amendment Act (England and Scotland), 1866.
34 & 35 Vict. c. 71 -	The Public Libraries Act, 1855, Amendment Act, 1871.
40 & 41 Vict. c. 54 -	The Public Libraries Amendment Act, 1877.

* * * * *

Preamble.

THE SUMMARY JURISDICTION ACT, 1884.

47 & 48 VICT. CHAP. 43.

An Act to repeal divers Enactments rendered unnecessary by the Summary Jurisdiction Acts and other Acts relating to Proceedings before Courts of Summary Jurisdiction, and to make further provision for the uniformity of Proceedings before those Courts. [7th August, 1884.]

WHEREAS the Summary Jurisdiction Acts regulate the procedure before courts of summary jurisdiction and on appeals from those courts to courts of quarter sessions, and it is expedient to provide for uniformity of procedure in all such cases: 11 & 12 Vict. c. 43. 12 & 13 Vict. c. 45. 42 & 43 Vict. c. 49.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Summary Jurisdiction Act, 1884. Short title.

2. This Act shall come into operation on the first day of December one thousand eight hundred and eighty-four. Commencement of Act.

* * * * *

4. The Acts contained in the schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned. Repeal of Acts in schedule.

Provided that—

(1) Where an enactment extends beyond England that enactment shall be repealed only as regards England; and

(2) The expression in the said schedule "conviction or order of a court of summary jurisdiction" shall mean a conviction or order made in pursuance of the Summary Jurisdiction Act; and

(3) This repeal shall not revive any enactment repealed by any of the repealed Acts, nor shall it affect—

(*a*) Anything duly done or suffered before the commencement of this Act under any enactment hereby repealed; or

(*b*) Any legal proceeding or appeal commenced, or any writ, warrant, or instrument made or issued before the commencement of this Act;

Section 4. and any such legal proceeding, appeal, writ, warrant, and instrument may be carried on and executed as if this Act had not passed.

A reference in any Act of Parliament or other document to any enactment repealed by this Act, whether incorporating or applying such enactment or otherwise, shall be construed to refer to the corresponding enactment in the Summary Jurisdiction Acts, and so far as there is no such corresponding enactment shall be repealed.

The schedule appended to this Act is a very long one, and contains the special provisions contained in numerous Acts as to the recovery of penalties, &c., before justices. This section repeals these provisions, and the next section substitutes for them the corresponding provisions of the Summary Jurisdiction Acts.

Removal of doubts as to application of Summary Jurisdiction Acts.

5. Whereas doubts may arise as to whether the Summary Jurisdiction Acts apply, or will, after the repeal enacted by this Act takes effect, apply to the proceedings before justices referred to in the sections mentioned in the third column of the schedule to this Act, and it is expedient to remove such doubts: Be it therefore enacted that—

The repeal enacted by this Act shall not take away any jurisdiction of any justices to act summarily in any matter referred to in an enactment hereby repealed, and the Summary Jurisdiction Acts shall, so far as is consistent with the tenor thereof, apply to every proceeding before justices as to which the procedure is wholly or partly repealed by this Act in substitution for the procedure so repealed.

And for the further removal of doubts it is hereby declared that where, by virtue of the repeal enacted by this Act or otherwise, any statute authorising the infliction by any justice or justices of a penalty or fine, either as a sole punishment or as an alternative punishment for imprisonment, provides no method for the recovery of such penalty or fine, sections nineteen and twenty-one of the Summary Jurisdiction Act, 1848, as amended by section twenty-one of the Summary Jurisdiction Act, 1879, shall apply to the recovery of such penalty or fine.

11 & 12 Vict. c. 43.
42 & 43 Vict. c. 49.

Application of provisions of 42 & 43 Vict. c. 49, respecting

6. Where a person is authorised by any Act passed before the commencement of the Summary Jurisdiction Act, 1879, to appeal from the conviction or order of a court of summary jurisdiction made in pursuance of the Summary Jurisdiction Acts, or from the refusal to make any conviction or order in

pursuance of those Acts, to a court of general or quarter sessions, he shall, after the passing of this Act, appeal to such court subject to the conditions and regulations contained in the Summary Jurisdiction Act, 1879, with respect to an appeal to a court of general or quarter sessions.

Section 6. Appeals to appeals under prior Acts.

It follows from this provision that all appeals against convictions or orders of a court of summary jurisdiction are now regulated by section 31 of the Summary Jurisdiction Act, 1879, *ante*, p. 64.

7. * * * *

This section extended the meaning of the term "court of summary jurisdiction," but it is now repealed and reproduced by the Interpretation Act, 1889, 52 & 53 Vict. c. 63, s. 41.

8. Whereas doubts have arisen whether, under the thirtieth section of the Summary Jurisdiction Act, 1879, the justices or council therein mentioned have power to provide more than one petty sessional court-house, and it is expedient that such doubts should be removed: Be it therefore enacted as follows:

Extension of 42 & 43 Vict. c. 49, s. 30.

It is hereby declared that the power of the thirtieth section of the Summary Jurisdiction Act, 1879, given to the justices or council therein mentioned to provide a petty sessional court-house shall be deemed to extend to providing more than one such petty sessional court-house if the justices or council shall think it necessary or expedient so to do.

And for the further removal of doubts it is hereby declared that a petty sessional court-house or occasional court-house for the use of the justices of any county may be outside the limits of the petty sessional division for which such court-house is provided or appointed, and may be either in the said county, or in an adjoining county or borough, and for the purpose of the jurisdiction of any justices acting in such court-house the same shall be deemed to be within the county and the petty sessional division for which such justices act.

9. Nothing in section two hundred and twenty-seven of the Municipal Corporations Act, 1882, shall be taken to have repealed section thirty-eight of the Summary Jurisdiction Act, 1879.

Removal of doubts as to effect of 45 & 46 Vict. c. 50, s. 227, on 42 & 43 Vict. c. 49, s. 38.

See 42 & 43 Vict. c. 49, s. 38, and the notes thereto, *ante*, p. 41.

10. Nothing in this Act shall alter the procedure for the recovery of or any remedy for the non-payment of any poor

Saving for the recovery of poor rates, &c.

Section 10. rate, or of any rate or sum the payment of which is not adjudged by the conviction or order of a court of summary jurisdiction.

But for this provision justices hearing complaints for poor rates would have been subject to all the provisions of the Summary Jurisdiction Acts, as they would have been a court of summary jurisdiction by virtue of section 7. But while the procedure for the recovery of poor rates is not affected, yet certain provisions of the Summary Jurisdiction Acts do apply to the proceedings. Thus, it has been held that a justice in such proceedings may state a special case under the Summary Jurisdiction Act, 1879, s. 33. See the cases cited in the notes to that section, *ante*, p. 36.

Recovery of payments certified by district auditors.

11. The payment of any sum certified by a district auditor to be due in accordance with the Poor Law Amendment Act, 1844, and the Acts amending the same, or with any other Act may, together with the costs of the proceedings for the recovery thereof, be enforced in like manner as if it were a sum due in respect of the poor rate.

As to the procedure upon the complaint of a district auditor to enforce payment of a sum certified to be due from any person, see *ante*, p. 115.

Effect of forms.

12. Whereas by section twenty-nine of the Summary Jurisdiction Act, 1879, the Lord Chancellor is authorised from time to time to make rules in relation to the forms to be used under the Summary Jurisdiction Acts or any of them, and to annul and to add to forms in relation to summary proceedings contained in other Acts, and doubts have arisen with respect to the effect of the forms altered by such rules, and it is expedient to remove such doubts: Be it therefore enacted that—

A form authorised by any rules for the time being in force in pursuance of the said section shall be of the same effect as if it were contained in the Summary Jurisdiction Act, 1848, or in any other Act to which the form is made applicable.

11 & 12 Vict. c. 43.

The rules and forms now in force are those of 16th July, 1886.

Preamble.

THE NAVAL ENLISTMENT ACT, 1884.

47 & 48 VICT. CHAP. 46.

An Act to amend the Naval Enlistment Act, 1853, and for other purposes connected therewith.

[7th August, 1884.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction.

1. The Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter twenty-four, intituled "An Act for the encouragement of the voluntary enlistment of Seamen, and to make regulations for more effectually manning His Majesty's Navy," is in this Act referred to, and may be cited as the Naval Enlistment Act, 1835.

The Act of the session of the sixteenth and seventeenth years of the reign of Her present Majesty, chapter sixty-nine, intituled "An Act to make better provision concerning the entry and service of Seamen, and otherwise to amend the laws concerning Her Majesty's Navy," is in this Act referred to, and may be cited as the Naval Enlistment Act, 1853.

This Act and the Naval Enlistment Act, 1835, and the Naval Enlistment Act, 1853, shall be construed together as one Act, and may be cited together as the Naval Enlistment Acts, 1835 to 1884, and this Act may be cited separately as the Naval Enlistment Act, 1884.

5 & 6 Will. 4, c. 62.

2.—(3) Any certificate which is by law evidence of the birth of a person, and any declaration under the Statutory Declarations Act, 1835, by the parent or guardian of a person entering into the naval service of Her Majesty as a boy respecting the place of birth of such boy, and a declaration made by a man on entering into the naval service of Her Majesty, respecting his place of birth, shall, for the purposes of this Act and of the said enactments, be evidence until the contrary is proved of the place of birth of the person, boy, or man referred to in the certificate or declaration.

Application of section 91 of

3. Section ninety-one of the Army Act, 1881 (which section relates to the sending of lunatic soldiers by a Secretary of State

Section 3. to workhouses and lunatic asylums and other places in which lunatics can legally be confined), shall apply in like manner as if it were herein re-enacted, with the substitution of "a person in the naval service of Her Majesty" for "soldier," and "soldier of the regular forces" respectively, and of "the Admiralty" for "a Secretary of State," and as if any declaration made on a person entering into the naval service of Her Majesty as a boy by his parent or guardian, or made by a man on entering into such service, were respectively substituted for the attestation paper.

44 & 45 Vict. c. 58, to lunatic seamen.

Section 91 of the Army Act, 1881, is set out *ante*, p. 93. It provides for the delivery of a lunatic soldier on discharge with his wife or child at the workhouse, or of a dangerous lunatic at the asylum.

As to the declaration for the purposes of proving place of birth, see section 2, sub-section (3), *supra*.

See further, the Criminal Lunatics Act, 1884, s. 8, *post*.

* * * * *

THE METROPOLITAN ASYLUM BOARD (BORROWING POWERS) ACT, 1884.

47 & 48 VICT. CHAP. 60.

An Act to enable the Managers of the Metropolitan Asylums District to borrow for certain purposes of the Diseases Prevention (Metropolis) Act, 1884.

[14th August, 1884].

46 & 47 Vict. c. 35.

WHEREAS by section six of the Diseases Prevention (Metropolis) Act, 1883, it is made the duty of the managers of the Metropolitan Asylum District, and they are thereby required, to provide certain wharves or landing places with convenient approaches thereto for the embarkation and landing of persons removed to or from any hospital ship or hospital belonging to the said managers, and for any other purpose in relation thereto:

And whereas doubts have arisen as to the powers of the said managers to borrow for the purpose of providing wharves or landing places and approaches, and also of providing vessels for use in connection with the said wharves or landing places and the asylums and hospital ships of the said managers, and it is expedient to remove such doubts:

Be it enacted by the Queen's most Excellent Majesty, by and

with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: **Preamble.**

1. This Act may be cited as the Metropolitan Asylum Board (Borrowing Powers) Act, 1884.

2. The provision by the said managers of wharves or landing places and approaches thereto, and the provision and erection of piers, floating dummies, and other necessary and proper erections, adjuncts, or conveniences in connection with the said wharves or landing places which have been or at any time hereafter may be provided or erected, and the provision of vessels or boats for use in connection with the said wharves or landing places and the asylums and hospital ships of the said managers which have been or at any time hereafter may be provided shall be deemed to have been and to be and shall be purposes for which the said managers have been and are authorised to borrow in pursuance of the Metropolitan Poor Act, 1867, and any Acts altering or amending the same. 30 Vict. c. 6.

See section 6 of the Diseases Prevention (Metropolis) Act, 1883, *ante*, p. 199.

As to the borrowing powers of the Metropolitan Asylum Board, see the notes to section 2 of the Poor Law Act, 1889, 52 & 53 Vict. c. 56, *post*.

THE CRIMINAL LUNATICS ACT, 1884.

47 & 48 VICT. CHAP. 64.

AN Act to consolidate and amend the Law relating to Criminal Lunatics. [14th August, 1884.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Criminal Lunatics Act, 1884. **Short titles.**

The Acts mentioned in the First Schedule to this Act are in this Act referred to and may be cited by the short titles mentioned in the third column of the said Schedule.

Section 2.

Order for detention of insane prisoner as criminal lunatic.

2.—(1) Where a prisoner is certified, in manner provided in this section, to be insane, a Secretary of State may, if he thinks fit, by warrant direct such prisoner to be removed to the asylum named in the warrant, and thereupon such prisoner shall be removed to and received in such asylum, and, subject to the provisions of this Act relating to conditional discharge and otherwise, shall be detained therein, or in any other asylum to which he may be transferred in pursuance of this Act, as a criminal lunatic until he ceases to be a criminal lunatic.

The provisions of the Act as to certifying a prisoner to be insane are contained in sub-sections (3) and (4), *infra*.

A person may cease to be a criminal lunatic in the events mentioned in the next sub-section.

(2) A person shall cease to be a criminal lunatic if he is remitted to prison or absolutely discharged in manner provided by this Act, or if any term of penal servitude or imprisonment to which he may be subject determines.

As to remitting to prison, see section 3, and as to absolute discharge, &c., see sections 5—7.

(3) Where it appears to any two members of the visiting committee of a prison that a prisoner in such prison, not being under sentence of death, is insane, they shall call to their assistance two legally qualified medical practitioners, and such members and practitioners shall examine such prisoner and inquire as to his insanity, and after such examination and inquiry may certify in writing that he is insane.

(4) In the case of a prisoner under sentence of death, if it appears to a Secretary of State, either by means of a certificate signed by two members of the visiting committee of the prison in which such prisoner is confined, or by any other means, that there is reason to believe such prisoner to be insane, the Secretary of State shall appoint two or more legally qualified medical practitioners, and the said medical practitioners shall forthwith examine such prisoner and inquire as to his insanity, and after such examination and inquiry such practitioners shall make a report in writing to the Secretary of State as to the sanity of the prisoner, and they, or the majority of them, may certify in writing that he is insane.

(5) The powers and duties by this section conferred and imposed on any two members of the visiting committee of a prison shall be exercised in the case of a prisoner in any prison within the jurisdiction of the Directors of Convict Prisons by the

said directors or one of them, and in the case of a prisoner in any prison within the jurisdiction of the Prison Commissioners may also be exercised by the said commissioners or one of them, and in the case of a prisoner in any prison not within the jurisdiction of such directors or commissioners shall be exercised by two visitors of the prison, or by two justices of the county or place in which such prison is situate.

Remitting of criminal lunatic to prison.

3. Where it is certified by two legally qualified medical practitioners that a person being a criminal lunatic (not being a person with respect to whom a special verdict has been returned that he was guilty of the act or omission charged against him, but was insane at the time when he committed the act or made the omission) is sane, a Secretary of State, if satisfied that it is proper so to do, may by warrant direct such person to be remitted to prison, to be dealt with according to law.

As to persons against whom a special verdict has been returned as above-mentioned, see the Trial of Lunatics Act, 1883, 46 & 47 Vict. c. 38, *ante*, p. 247.

Periodical report of criminal lunatics.

4.—(1) The superintendent of an asylum or other place in which any criminal lunatic is detained shall make a report to a Secretary of State at such times (not being less than once a year) and containing such particulars as the Secretary of State may require, of the conditions and circumstances of every criminal lunatic in such asylum or place; and the Secretary of State shall, at least once in every three years during which a criminal lunatic is detained in any asylum or other place, take into consideration the condition, history, and circumstances of such lunatic, and determine whether he ought to be discharged or otherwise dealt with.

(2) Where a criminal lunatic is conditionally discharged in pursuance of this Act, a report of his condition shall be made to a Secretary of State by such person at such times and containing such particulars as may be required by the warrant of discharge.

As to the conditional discharge of a criminal lunatic, see the next section.

Transfer and discharge (absolute or conditional) of criminal lunatic.

5.—(1) A Secretary of State may from time to time by warrant direct the transfer to an asylum of any criminal lunatic detained in any other asylum or in any other place, and such criminal lunatic shall accordingly be received and detained in the asylum to which he is so transferred.

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[*See* 23 & 24 Vict. c. 75, s. 9; 27 & 28 Vict. c. 29, s. 2; 30 Vict. c. 12, ss. 4, 5.]

(2) A Secretary of State by warrant may absolutely discharge any criminal lunatic, and may also discharge any criminal lunatic conditionally, that is to say, on such conditions as to the duration of such discharge and otherwise as the Secretary of State may think fit.

(3) Where in pursuance of this section a criminal lunatic has been discharged conditionally, if any of the conditions of such discharge appear to a Secretary of State to be broken, or the conditional discharge is revoked, the Secretary of State may by warrant direct him to be taken into custody, and to be conveyed to some asylum named in the warrant; and he may thereupon be taken in like manner as if he had escaped from such asylum, and shall be received and detained therein as if he had been removed thereto in pursuance of the foregoing provisions of this Act.

As to escaped lunatics, see section 11, *post*.

Duty of superintendent on discharge or expiration of sentence.

6. Where a person, being a criminal lunatic, is detained in any asylum or place, and either he is absolutely discharged or the term of penal servitude or imprisonment to which he is subject determines, it shall be the duty of the superintendent of such asylum or place, unless satisfied that the said person is sane, to take all reasonable means for his being placed under the care of some relation or friend, or in some asylum or place for the reception of lunatics.

Person ceasing to be criminal lunatic and becoming pauper lunatic.

7.—(1) Where a person being a criminal lunatic is detained in an asylum or other place, or being a prisoner in any prison is certified in manner provided by this Act to be insane, but has not been directed by the Secretary of State to be removed to an asylum, and it is made to appear to any justice of the peace having jurisdiction where such asylum or place or prison is situate, or being a member of the visiting committee of such prison, by notice in writing signed by the superintendent of such asylum or place, or by the governor of such prison, either—

(*a*) that such person is about to be absolutely discharged, or

(*b*) that any term of penal servitude or imprisonment to which such person is subject is about to determine,

and that in the opinion of such superintendent or governor such person is insane and unfit to be at large, the said justice shall examine such person and make any inquiry and take any medical or other evidence which he may deem necessary respecting him.

(2) The said justice, if satisfied on such examination and inquiry that such person is insane and a proper person to be detained under care and treatment, shall make an order for his detention as a lunatic in the asylum or place of confinement for lunatics named in the order; and if within one month after the date of the said notice such criminal lunatic is absolutely discharged, or such term of penal servitude or imprisonment determines, the said order shall thereupon take effect, and he shall be deemed to be a pauper lunatic.

See the provisions of the next section as to persons becoming pauper lunatics.

(3) An order under this section shall be in such form as may be prescribed by a Secretary of State, and there shall be inserted in every such order, wherever it be possible, the name and address of one or more of the relations of the lunatic.

(4) At any time before a person for whose detention an order is made under this section is detained in an asylum or place of confinement for lunatics in pursuance thereof, such order may be amended or cancelled and a new order made by the justice who made the original order, or, if such justice is unable to act, by any other justice having jurisdiction in the same place.

Provision as to detention of person becoming pauper lunatic.

8.—(1) Where by virtue of an order made by a justice under this Act a person becomes a pauper lunatic, such person shall for the purposes of this Act be deemed to be primâ facie chargeable to the union or parish in the United Kingdom in which it appears to the justice making the order that the ordinary residence of such person was situate at the time when the offence in respect of which he became a criminal lunatic was alleged to have been committed, and, if such residence is not shown to the satisfaction of the said justice, then to such union or parish in the United Kingdom as follows, namely,—

(*a*) To that in which it appears to the said justice that the said offence was alleged to have been committed; or,

(*b*) If it appears that the offence was alleged to have been committed out of the United Kingdom, to that in which it appears to the said justice that such person was first apprehended for such offence; or,

(*c*) If such person appears to have been so apprehended out of the United Kingdom, to that in which it appears to the said justice that such person first landed in the United Kingdom:

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Provided that, if such person appears to the justice making the order to have been a man in the naval or military service of Her Majesty or to have been the wife or infant child of a man in such naval or military service at the time when the offence was alleged to have been committed, such person shall for the purposes of this Act be deemed to be primâ facie chargeable to the union or parish in the United Kingdom to which the man in such naval or military service appears to the said justice from the statements in the declaration made on his entry into the naval service of Her Majesty, or in his attestation paper on enlistment, or from other available information, to be by law chargeable for the purposes of the Acts relating to the relief of the poor.

The justices' order here referred to is an order made under the preceding section.

As to the declaration made on entry into the naval service, see 47 & 48 Vict. c. 46, ss. 2, 3, *ante*, p. 247, and as to the statements made in the attestation paper, see section 91 of the Army Act, 1881, *ante*, p. 93.

(2) Subject as herein-after mentioned, an order made by a justice under this Act for the detention of a person as a lunatic shall, on such person becoming a pauper lunatic, have the same effect as an order of a justice, and medical certificate, made in pursuance of section sixty-eight of the Lunatic Asylums Act, 1853, in the case of a lunatic found wandering at large in the union or parish to which such person is primâ facie chargeable, and all the provisions of the Lunacy Act, 1845, and of the Lunatic Asylums Act, 1853, and of any Acts amending those Acts or either of them shall apply accordingly in like manner as if such person had been sent from that union or parish:

16 & 17 Vict. c. 97.

8 & 9 Vict. c. 100.
16 & 17 Vict. c. 97.

And such person on becoming a pauper lunatic, if detained in an asylum or place of confinement to which lunatics may be sent in pursuance of the said Lunatic Asylums Act, 1853, shall be deemed to have been received therein in pursuance of the said order of detention, and if detained elsewhere shall be removed by a person named in the order, or any constable, to the asylum or place of confinement for lunatics named in the order, being one to which a justice can send a lunatic found wandering at large in the aforesaid union or parish:

Provided that if such pauper lunatic is certified by a legally qualified medical practitioner to be unfit for removal to such last-mentioned asylum or place of confinement, he may either be removed to and detained in any nearer asylum or place of confinement for lunatics willing to receive him, or may be detained

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in any asylum or place in which a criminal lunatic may be detained, but in either case he shall be deemed to have been sent to the asylum or place of confinement in which he is so detained, in pursuance of section sixty-eight of the Lunatic Asylums Act, 1853, and the expenses incurred in relation to such lunatic shall be defrayed, and the lunatic, when fit to be removed, may be removed accordingly, and where the lunatic is detained in any asylum or place to which lunatics cannot be sent, in pursuance of the Lunatic Asylums Act, 1853, the provisions of the above-mentioned Acts shall apply as if such asylum or place were an asylum within the meaning of the Lunatic Asylums Act, 1853, and the council of supervision or other persons having control thereof were visitors.

The effect of the order will, therefore, be that the union to which the lunatic is *primâ facie* chargeable must pay for his maintenance in the asylum until he is adjudged chargeable to some other union or to the county under 53 Vict. c. 5, ss. 289, 290; and the property will be available for his maintenance under section 299.

The Lunacy Act, 1890, 53 Vict. c. 5, *post*, does not, except as regards a few special provisions, apply to criminal lunatics. It will, however, apply to a person who becomes a pauper lunatic under this Act.

(3) Provided that in any case where the union or parish to which a person will for the purposes of this Act be deemed to be primâ facie chargeable is in Scotland or Ireland, the justice making an order under this Act for the detention of such person as a lunatic shall report the same to a Secretary of State, and thereupon a Secretary of State may, by warrant, direct the removal of such person upon his becoming a pauper lunatic to Scotland or Ireland, as the case may be, and if he is unfit to be removed shall cause the expenses incurred in relation to such person to be paid and they shall be paid by the same persons and out of the same funds as if he had been actually removed.

(4) Where such person is removed to Scotland, he shall be removed to the general prison at Perth, and may be dealt with in the same manner as if he were a person certified to be insane in pursuance of section twenty-three of the Lunacy (Scotland) Act, 1862, and had been committed to a local prison for the place to which he is primâ facie chargeable. 25 & 26 Vict. c. 54.

(5) Where such person is removed to Ireland he shall be removed to the central criminal lunatic asylum established in pursuance of the Central Criminal Lunatic Asylum (Ireland) Act, 1845, and shall be received in the said central criminal lunatic asylum, and may be dealt with in manner provided by section twelve of the Lunatic Asylums (Ireland) Act, 1875, as if 8 & 9 Vict. c. 107. 38 & 39 Vict. c. 67.

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he were a person therein confined whose sentence had expired; but he shall not, by reason only that he is for the purposes of this Act deemed to be primâ facie chargeable to any union or parish, be deemed for the purposes of the said section to belong to the district comprising such union or parish.

Restriction on power of Secretary of State as regards lunatics not fit for ordinary asylum.

9. With respect to the transfer by warrant of a Secretary of State, and the removal by order of a justice under this Act, of a person from an asylum for criminal lunatics appointed by Her Majesty, in pursuance of the Criminal Lunatic Asylums Act, 1860, to an asylum within the meaning of the Lunatic Asylums Act, 1853, the following provisions shall have effect:

23 & 24 Vict. c. 75.

(1) The Secretary of State or justice shall be satisfied either, by a certificate from a legally qualified medical practitioner, that the said person is in such a state of insanity that he can be properly treated in an ordinary asylum, or that the committee of visitors of the asylum to which the said person is proposed to be transferred or removed consents to receive him;

The 23 & 24 Vict. c. 75, s. 1, enables Her Majesty by warrant to appoint any asylum provided or appropriated for the purpose to be an asylum for criminal lunatics.

The transfer and order of removal above referred to are made under sections 5 and 7 respectively.

(2) If the said person becomes a pauper lunatic under this Act, and the consent to receive him of the committee of visitors of the asylum is required, and is not given, he may be removed to and detained in any asylum or place in which lunatics may be detained which is willing to receive him, and the costs of his removal to and maintenance in such asylum or place shall be defrayed by the said committee of visitors;

(3) Where the said person has been transferred to any such asylum as a criminal lunatic, and the committee of visitors of the asylum satisfy a Secretary of State that the said criminal lunatic is in such a state of insanity that he cannot be properly treated in the said asylum, and request the Secretary of State to transfer him to some other asylum, the Secretary of State shall so transfer him, and the costs of that transfer shall be defrayed by the said committee of visitors;

4) Where a pauper lunatic under this section is removed to and detained in any asylum or place in consequence of the committee of visitors of an asylum not consenting

to receive him, such pauper lunatic shall be deemed to have been sent to and to be detained in the said asylum or place, in pursuance of section sixty-eight of the Lunatic Asylums Act, 1853; 16 & 17 Vict. c. 97.

(5) Any costs directed by this section to be defrayed by a committee of visitors shall be a simple contract debt of such committee of visitors, and shall be paid as part of the general expenses of the asylum.

The general expenses of the asylum are payable out of the county rate or borough rate as the case may be: 53 Vict. c. 5, s. 273.

Provision as to expenses of maintenance of criminal lunatic.

10.—(1) Subject as in this section mentioned, all expenses incurred under this Act in relation to a criminal lunatic while detained in an asylum, and all expenses of removing a person on his becoming under this Act a pauper lunatic to an asylum or place of confinement for lunatics in any part of the United Kingdom, shall be defrayed out of moneys provided by Parliament, and the cost of maintenance of a criminal lunatic in any asylum within the meaning of the Lunatic Asylums Act, 1853, shall be at the same rate as if he was a lunatic sent from a union or parish situate elsewhere than in the county or borough to which the asylum belongs. 16 & 17 Vict. c. 97.

This section seems to render the decision in *Reg.* v. *Mews*, 6 Q. B. D. 47; 45 J. P. 93, no longer applicable.

Under 53 Vict. c. 5, s. 283, a sum may be fixed as the weekly payment for a lunatic sent from a union within the county, and a greater weekly sum in respect of a lunatic sent from a place outside the county. The maintenance of a criminal lunatic will therefore be payable at the higher rate.

(2) Where a person, being a criminal lunatic, is absolutely discharged before the expiration of any term of penal servitude or imprisonment to which he is subject, or is conditionally discharged in pursuance of this Act, the Commissioners of Her Majesty's Treasury may from time to time contribute, out of moneys provided by Parliament, such sum or sums, on the recommendation of a Secretary of State, as they from time to time think fit towards the costs of the maintenance of such person, until the expiration of the said sentence, or so long as he continues to be subject to any conditions of discharge (as the case may be).

(3) Section one hundred and four of the Lunatic Asylums Act, 1853, with respect to the application of the property of a lunatic for his maintenance and for the other charges in the said section mentioned, and the other sections of the Lunatic Asylums Act, 1853, which are ancillary to the said section one hundred and four, shall extend to a criminal lunatic wherever

Section 10. he may be detained, and to his property, in like manner as if the said sections were herein re-enacted and in terms made applicable thereto, and any power exerciseable by justices under the said section may, for the purposes of this section, be exercised by two justices of the county or place where such lunatic is detained.

The Lord Chancellor, or other authority having power to make orders with respect to the property of a lunatic, under sections twelve, thirteen, and fourteen of the Lunacy Regulation Act, 1862, shall, if satisfied by affidavit or otherwise that a person is or has been a criminal lunatic, and continues to be insane and to be in confinement, have power to make any such order with respect to the property of such person, and the application thereof for the maintenance or benefit of him or his family, or for carrying on his trade or business, as may be made in pursuance of the said sections of the Lunacy Regulation Act, 1862.

25 & 26 Vict. c. 86.

The 53 Vict. c. 5, s. 299, enables justices to make orders for the appropriation of a lunatic's property towards his maintenance.

The 25 & 26 Vict. c. 86, is repealed by 53 Vict. c. 5, and the orders must now be made pursuant to that Act, Part IV.

The mother and brother of a criminal lunatic applied for an order that his property, along with some other property in which they were interested together with him, might be applied in payment of moneys for which the lunatic had given security, the mother undertaking to pay his other debts. There was no reasonable prospect of his being ever released. *Held*, that the application must be refused as not being for his benefit: *In re Price*, 34 Ch. D. 603; 56 L. J. Ch. 292; 56 L. T. (N.S.) 77; 35 W. R. 340.

(4) When the criminal lunatic was a person removed from India in pursuance of the Lunatics Removal (India) Act, 1851, all expenses attending the removal of any such person from India, and his safe custody and maintenance, shall continue to be defrayed in the same manner as if this Act had not been passed.

14 & 15 Vict. c. 81.

Recapture of escaped lunatic, and punishment for rescuing or aiding to escape.

11.—(1) Sections eleven and twelve of the Criminal Lunatic Asylums Act, 1860, shall apply to every asylum or place in which criminal lunatics are confined so far as regards those lunatics, and to the criminal lunatics in such asylum or place, in all respects as if such asylum or place were an asylum for criminal lunatics appointed by Her Majesty in pursuance of that Act, and any officer, servant, or other person committing any such offence as is mentioned in the said section twelve shall be liable to be convicted and punished accordingly.

The 23 & 24 Vict. c. 75, s. 11, provides that in case of escape of any criminal lunatic he may be re-taken by the superintendent of the asylum

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or any officer or servant belonging thereto, or any person authorised in writing by the Secretary of State, and conveyed to and received and detained in the asylum. By section 12 any person who rescues a criminal lunatic, and any officer or servant of the asylum who through wilful neglect or connivance permits an inmate to escape, or secretes, abets, or connives at such escape shall be guilty of felony; and any such officer or servant who carelessly allows any such person to escape shall be liable to a penalty not exceeding 20*l.* nor less than 2*l.* on summary conviction.

(2) If a person escapes while being conveyed to an asylum or place in pursuance of this Act he may be re-taken at any time, in like manner as if he had escaped from the said asylum.

Treatment of imbeciles.

12. A Secretary of State may from time to time make, and when made, revoke and vary, regulations for the treatment of persons sentenced to or ordered to be kept in penal servitude or imprisonment who appear, in accordance with the said regulations, to be from imbecility of mind either unfit for penal discipline or unfit for the same penal discipline as other prisoners.

Saving of authority of Crown to make orders.

13. Nothing in this Act shall restrain or affect the authority of Her Majesty, where She may so think fit, to make any order with respect to any person for whose safe custody during Her pleasure Her Majesty is by law authorised to give order.

An order for safe custody may be made under the Trial of Lunatics Act, 1883, 46 & 47 Vict. c. 38, *ante*, p. 247.

Provision as to existing criminal lunatics.

14.—(1) Subject as herein-after provided, this Act shall apply to any person who at the commencement of this Act is, in pursuance of the Acts relating to criminal lunatics, detained in an asylum or place of confinement for lunatics; provided that any such person detained in pursuance of section six of the Criminal Lunatics Act, 1867, shall on the commencement of this Act be deemed to be a person who has become under this Act a pauper lunatic. 30 & 31 Vict. c. 12

(2) An order under this Act for the detention of any person as a pauper lunatic may be made before the commencement of this Act, but shall not take effect until such commencement.

Making and execution of warrant of Secretary of State.

15. A warrant of a Secretary of State under this Act may be under the hand of a Secretary of State or of an Under Secretary of State, and may be executed by the person to whom it is addressed, or by any constable; and such warrant when it relates to a person not in custody may be executed in like manner as if it were a warrant for the arrest of a person charged with an offence, and it shall be the duty of every constable to

Section 15. aid in the execution of every warrant of a Secretary of State under this Act.

Interpretation of terms.

16. In this Act, if not inconsistent with the context, the following words and expressions have the meanings herein-after assigned to them respectively; that is to say,

"Criminal lunatic" means any of the following persons:—

(*a*) any person for whose safe custody during Her Majesty's pleasure Her Majesty or the Admiralty is authorised to give order; and

(*b*) any prisoner whom a Secretary of State or the Admiralty has in pursuance of any Act of Parliament directed to be removed to an asylum or other place for the reception of insane persons:

"Prison" means any prison or place of confinement to which a person may be committed whether on remand or for trial, safe custody, or punishment, or otherwise, under any other than civil process; and "prisoner" means any person so committed:

"Secretary of State" means one of Her Majesty's Principal Secretaries of State:

"The Admiralty" means the Lord High Admiral of the United Kingdom, or any two or more of the Commissioners for executing the office of Lord High Admiral of the United Kingdom:

"Superintendent" includes any person in charge of an asylum or other place for the confinement of lunatics:

"Asylum" means an asylum within the meaning of the Lunatic Asylums Act, 1853, and an asylum for criminal lunatics appointed by Her Majesty in pursuance of the Criminal Lunatic Asylums Act, 1860, and includes a hospital registered for the reception of lunatics, but does not include a licensed house; provided that a hospital registered as aforesaid shall not be under any obligation by virtue of this Act to receive any criminal lunatic:

16 & 17 Vict. c. 97.

23 & 24 Vict. c. 75.

"Costs of maintenance" include, in relation to any lunatic, the cost of the lodging, clothing, medicine, and care of such lunatic; and "expenses incurred under this Act in relation to a criminal lunatic" shall be deemed to include the costs of his maintenance as so defined.

Repeal.

17. The Acts mentioned in the Second Schedule to this Act are hereby repealed, as from the commencement of this Act, to the extent shown in the third column of the said schedule; but

this repeal shall not affect any warrant issued, or order made, or thing done in pursuance of any enactment so repealed. s. 17.

18. This Act shall, save as in this Act otherwise provided, come into operation on the first day of November, one thousand eight hundred and eighty-four, which day is in this Act referred to as "the commencement of this Act." Commencement and extent of Act.

Save as in this Act otherwise expressly provided, this Act shall not extend to Scotland or Ireland.

THE FIRST SCHEDULE.

Section 1.

Session and Chapter.	Title.	Short Title.
8 & 9 Vict. c. 100. -	An Act for the regulation of the care and treatment of lunatics.	The Lunacy Act, 1845.
8 & 9 Vict. c. 107. -	An Act for the establishment of a central asylum for insane persons charged with offences in Ireland; and to amend the Act relating to the prevention of offences by insane persons, and the Acts respecting asylums for the insane poor, in Ireland; and for appropriating the lunatic asylum in the city of Cork to the purposes of a district lunatic asylum.	The Central Criminal Lunatic Asylum (Ireland) Act, 1845.
14 & 15 Vict. c. 81. -	An Act to authorise the removal from India of insane persons charged with offences, and to give better effect to inquisitions of lunacy taken in India.	The Lunatics Removal (India) Act, 1851.
23 & 24 Vict. c. 75. -	An Act to make better provision for the custody and care of criminal lunatics.	The Criminal Lunatic Asylums Act, 1860.
25 & 26 Vict. c. 54, -	An Act to make further provision respecting lunacy in Scotland.	The Lunacy (Scotland) Act, 1862.

Schedule 2.

THE SECOND SCHEDULE.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
3 & 4 Vict. c. 54. -	An Act for making further provision for the confinement and maintenance of insane prisoners.	The whole Act.
6 & 7 Vict. c. 26. -	An Act for regulating the prison at Millbank.	Section twenty-one.
16 & 17 Vict. c. 96. -	An Act to amend an Act passed in the ninth year of Her Majesty "for the regulation of the care and treatment of lunatics."	Section thirty-eight from and including the words "save as hereinafter provided;" to the end of that section.
23 & 24 Vict. c. 75. -	An Act to make better provision for the custody and care of criminal lunatics.	Section two, the words "of the Acts hereinbefore mentioned, or under any other," and the words "or to be unfit from imbecility of mind for penal discipline." Sections seven, nine, and ten.
25 & 26 Vict. c. 86. -	The Lunacy Regulation Act, 1862.	Section fifteen.
27 & 28 Vict. c. 29. -	An Act to amend the Act third and fourth Victoria, chapter fifty-four for making further provision for the confinement and maintenance of insane prisoners.	The whole Act.
29 & 30 Vict. c. 109. -	The Naval Discipline Act, 1866.	Section eighty, so far as relates to a person imprisoned in England.
30 & 31 Vict. c. 12. -	The Criminal Lunatics Act, 1867.	The whole Act.
32 & 33 Vict. c. 78. -	The Criminal Lunatics Act, 1869.	The whole Act.
44 & 45 Vict. c. 58. -	The Army Act, 1881.	In section one hundred and thirty so much of sub-section five as relates to a person imprisoned in England.
46 & 47 Vict. c. 38. -	The Trial of Lunatics Act, 1883.	Sub-section three of section two.

Preamble.

THE NEW PARISHES ACTS AND CHURCH BUILDING ACTS AMENDMENT ACT, 1884.

47 & 48 VICT. CHAP. 65.

An Act to further amend the New Parishes Acts and the Church Building Acts. [14th August, 1884.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the New Parishes Acts and Church Building Acts Amendment Act, 1884. Short title.

Amendment of New Parishes Acts.

2.—(1) Where, under the New Parishes Acts, 1843, 1844, and 1856, or any of them, a district has been constituted, but a church has not been provided for or alloted to such district, it shall be lawful for the Ecclesiastical Commissioners for England, if it appears to them expedient, to submit (with the consent of the Bishop of the diocese under his hand) to Her Majesty in Council a scheme for the dissolution of such district, and for the reincorporation of its area or parts or part thereof in the parish or parishes or district or districts, out of which it was constituted, or for the addition of its area or parts or part thereof to some other parish or parishes or district or districts, as to the said Commissioners may appear most expedient. Power to dissolve district formed under New Parishes Acts. 6 & 7 Vict. c. 37. 7 & 8 Vict. c. 94. 19 & 20 Vict. c. 104.

(2) If an endowment has been provided for the district so dissolved, any scheme under this section shall provide for its return to and revesting in the body or person who provided the same; and any such scheme may contain such other incidental or auxiliary provisions as the said Commissioners may deem necessary or proper.

(3) The draft of any scheme made under this section must be delivered or transmitted to every incumbent or minister and patron affected thereby; and such scheme shall not be submitted to Her Majesty in Council until after the expiration of one month next after such draft shall have been so delivered or transmitted, unless every such incumbent or minister and patron shall in the meantime consent thereto; and if any person shall at the time of the ratification of such scheme be the incumbent

Section 2.

or minister of the district proposed to be dissolved, the scheme shall not have any operation unless and until such person shall have consented thereto, or shall have ceased to be such incumbent or minister.

(4) A map or plan showing every alteration of boundaries proposed to be effected by a scheme under this section shall be annexed to the draft scheme, and a copy of such map or plan settled so as to correspond with the provisions of the scheme as ratified, shall be registered by the registrar of the diocese, together with any Order of Her Majesty in Council ratifying such scheme, but it shall not be necessary to publish any such map or plan in the *London Gazette*.

(5) Subject as aforesaid, the provisions of the said New Parishes Acts relative to the making, publication, and ratification of schemes shall apply to schemes under this section.

The text of the Acts referred to in the above section is too long for insertion here. The reader will find all the provisions of these Acts set out in Mr. Brook Little's work on the "Law of Burial," pp. 429—452.

Amendment of s. 1 of 32 & 33 Vict. c. 94.

3. The powers as to alterations of boundaries contained in the first section of the New Parishes Acts and Church Building Acts Amendment Act, 1869, shall be applicable and may be exercised in the case of any district constituted under the New Parishes Acts, 1843, 1844, and 1856, or any of them, in which no church shall have been provided and consecrated, as well as in the case of a district which shall have become a new parish for ecclesiastical purposes.

The 32 & 33 Vict. c. 94, s. 1, provides that the powers and provisions relating to the alteration of the boundaries of districts which are contained in 7 & 8 Vict. c. 94, s. 9, shall, notwithstanding the lapse of the periods of twelve months and five years mentioned in the same section, and in the 27th section of 13 & 14 Vict, c. 94 respectively, or either of them, be at any time applicable to the alteration of the boundaries of any and every ecclesiastical district which may or shall have become a new parish for ecclesiastical purposes under the provisions of the "New Parishes Acts," whether such district has been or shall have been originally created under the provisions of the said Acts, or any of them, or of any other Act of Parliament.

The 7 & 8 Vict. c. 94, s. 9, provides that it shall be lawful, by the (Ecclesiastical Commissioners) at any time or times within twelve months after the date of the licence of the minister first licensed to any separate district constituted under 6 & 7 Vict. c. 37, to alter the bounds of such district, although any alteration be not required with a view to the constituting of another separate district: Provided always, that the scheme for making any such alteration shall be subject to all the provisions in the same Act, and in (7 & 8 Vict. c. 94), contained relating to schemes for constituting separate districts thereunder; and that any portion of any such separate district which by any such alteration as aforesaid shall become detached or excluded therefrom, shall to all intents and purposes again belong to and form part of the parish, chapelry, or district out of which such portion was taken, upon such separate district being originally

constituted, or to and of any new district as shall be determined by the like authority.

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The 13 & 14 Vict. c. 94, s. 27, provides that the powers and authority relating to the alteration of the boundaries of districts contained in the 7 & 8 Vict. c. 94, may, as to any such district then existing, notwithstanding the limitation in the same Act contained, be exercised at any time within five years from the passing of the Act, and as to every such district hereafter to be constituted, within five years from the date of the license of the minister first licensed thereto, and this notwithstanding that any such district may have become a new parish by virtue of the provisions of the Act under which such district was constituted.

Amendment of Church Building Acts.

Power to revoke or alter provision made under s. 18 of 1 & 2 Vict. c. 107 with respect to application of pew rents.

4.—(1) Where a church or chapel has been constituted the parish church of a parish in the stead of the ancient parish church under the Act passed in the year 1838, "To amend and render more effectual the Church Building Acts," and provision has been made under section eighteen of the same Act for the maintenance of the ministers and clerks of the respective churches, or either of them, out of the pew rents of either of such churches, it shall be lawful for the Ecclesiastical Commissioners for England from time to time by deed under their common seal, made with the consent of the Bishop of the diocese, and of every patron and minister affected thereby, to revoke in whole or part or in any way to alter as they may see fit the deed or other instrument making such provision.

(2) A consent under this section must be testified by writing under the hand of the person giving the same, and attested by at least one witness.

(3) Any deed or other instrument making such provision as aforesaid, which is expressed to be revoked or altered by a deed duly made in compliance with this section, shall to the extent of such revocation or alteration cease to be in force and become of no effect.

Short titles of Church Building Acts.

5. The Acts specified in the Schedule to this Act may together with this Act be collectively cited as the Church Building Acts, 1818 to 1884; and each of the said Acts may be cited by the short title in the third column of that schedule.

Schedule.

SCHEDULE.

Church Building Acts.

Session and Chapter.	Long Title.	Short Title.
58 Geo. 3, c. 45 [1818.]	An Act for building and promoting the building of additional churches in populous parishes.	The Church Building Act, 1818.
59 Geo. 3, c. 134 [1819.]	An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional churches in populous parishes.	The Church Building Act, 1819.
3 Geo. 4, c. 72 - [1822.]	An Act to amend and render more effectual two Acts passed in the fifty-eighth and fifty-ninth years of His late Majesty, for building and promoting the building of additional churches in populous parishes.	The Church Building Act, 1822.
5 Geo. 4, c. 103 [1824.]	An Act to make further provision, and to amend and render more effectual, three Acts passed in the fifty-eighth and fifty-ninth years of His late Majesty, and in the third year of His present Majesty, for building and promoting the building of additional churches in populous parishes.	The Church Building Act, 1824.
7 & 8 Geo 4, c. 72 - [1827.]	An Act to amend the Acts for building and promoting the building of additional churches in populous parishes.	The Church Building Act, 1827.
1 & 2 Will. 4, c. 38 - [1831.]	An Act to amend and render more effectual an Act passed in the seventh and eighth years of the reign of His late Majesty, intituled "An Act to amend the Acts for building and promoting the building of additional churches in populous parishes."	The Church Building Act, 1831.
2 & 3 Will. 4, 61 - [1832.]	An Act to render more effectual an Act passed in the fifty-ninth year of His late Majesty King George the Third, intituled "An Act	The Church Building Act, 1832.

SCHEDULE—*continued.* Schedule.

Session and Chapter.	Long Title.	Short Title.
2 & 3 Will. 4, c. 61 - [1832.]	to amend and render more effectual an Act passed in the last session of Parliament, for building and promoting the building of additional churches in populous parishes.	The Church Building Act, 1832.
1 & 2 Vict. c. 107 - [1838.]	An Act to amend and render more effectual the Church Building Acts.	The Church Building Act, 1838.
2 & 3 Vict. c. 49 - [1839.]	An Act to make better provision for the assignment of ecclesiastical districts to churches or chapels augmented by the Governors of the Bounty of Queen Anne, and for other purposes.	The Church Building Act, 1839.
3 & 4 Vict. c. 60 - [1840.]	An Act to further amend the Church Building Acts.	The Church Building Act, 1840.
7 & 8 Vict. c. 56 - [1844.]	An Act concerning banns and marriages in certain district churches or chapels.	The Church Building (Banns and Marriages) Act, 1844.
8 & 9 Vict. c. 70 - [1845.]	An Act for the further amendment of the Church Building Acts.	The Church Building Act, 1845.
9 & 10 Vict. c. 68 - [1846.]	An Act for better enabling the burial service to be performed in one chapel where contiguous burial grounds shall have been provided for two or more parishes or places.	The Church Building (Burial Service in Chapels) Act, 1846.
11 & 12 Vict. c. 37 - [1848.]	An Act to amend the law relative to the assignment of ecclesiastical districts.	The Church Building Act, 1848.
14 & 15 Vict. c. 97 - [1851.]	An Act to amend the Church Building Acts.	The Church Building Act, 1851.
17 & 18 Vict. c. 32 - [1854.]	An Act to facilitate the apportionment of the rent when parts of lands in lease are taken for the purposes of the Church Building Acts.	The Church Building Act, 1854.
19 & 20 Vict. c. 55 - [1856.]	An Act for transferring the powers of the Church Building Commissioners to the Ecclesiastical Commissioners for England.	The Church Building Commissioners (Transfer of Powers) Act, 1855.
32 & 33 Vict. c. 94 - [1869.]	An Act to amend the New Parishes Acts and Church Building Acts.	The New Parishes Acts and Church Building Acts Amendment Act, 1869.

Preamble.

THE MUNICIPAL ELECTIONS (CORRUPT AND ILLEGAL PRACTICES) ACT, 1884.

47 & 48 VICT. CHAP. 70.

An Act for the better Prevention of Corrupt and Illegal Practices at Municipal and other Elections.

[14th August, 1884.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

1. This Act may be cited as the Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

This Act applies not only to municipal and county council elections, but also to elections of guardians, school boards, local boards, and improvement commissioners. See section 36. The notes to the several sections of the Act have reference only to the election of guardians and school boards.

Corrupt Practices.

Definition and punishment of corrupt practice at municipal election.

2.—(1) The expression "corrupt practice" in this Act means any of the following offences, namely, treating, undue influence, bribery, and personation as defined by the enactments set forth in Part One of the Third Schedule to this Act, and aiding, abetting, counselling, and procuring the commission of the offence of personation.

As the election of guardians is conducted by means of voting papers, the foregoing provision as to personation does not apply. For the corresponding provision relating to the election of guardians see the notes to section 36 (1) (*g*), *post*. The provisions as to personation will, however, apply to school board elections, which are conducted under the Ballot Act, 1872.

(2) A person who commits any corrupt practice in reference to a municipal election shall be guilty of the like offence, and shall on conviction be liable to the like punishment, and subject to the like incapacities, as if the corrupt practice had been committed in reference to a parliamentary election.

By the Corrupt Practices Act, 1883 (15 & 46 Vict. c. 50, s. 6), corrupt practices other than personation or aiding, &c., in the commission of personation, are declared to be misdemeanors, and any person convicted of any of them is liable to be imprisoned, with or without hard labour, for a term not exceeding two years, or to be fined any sum not exceeding 200*l*. A person who commits the offence of personation or of aiding, &c., the commission of that offence, is guilty of felony, and liable on conviction to be

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imprisoned, with or without hard labour, for a period not exceeding two years. In addition to these punishments, a person who is convicted on indictment of any corrupt practice shall not be capable for a period of seven years from the date of his conviction (*a*) of being registered as an elector or voting at any election in the United Kingdom, whether it be a parliamentary election or an election for any public office (see *infra*) ; or (*b*) of holding any public or judicial office (see *infra*), and if he holds any such office the office shall be vacated. Any person so convicted of a corrupt practice in reference to any election shall also be incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his conviction, and if at that date he has been elected to the House of Commons his election shall be vacated from the time of such conviction. By section 64, the expression "public office" means any office under the Crown or under the charter of a city or municipal borough, or under the Acts relating to municipal corporations, or to the poor law or under the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), or under the Public Health Act, 1875 (38 & 39 Vict. c. 55), or under any Acts amending the above-mentioned Acts, or under any other Acts for the time being in force (whether passed before or after the commencement of this Act) relating to local government, whether the office is that of mayor, chairman, alderman, councillor, guardian, member of a board, commission, or other local authority in any county, city, borough, union, sanitary district, or other area, or is the office of clerk of the peace, town clerk, clerk or other officer under a council, board, commission, or other authority, or is any other office to which a person is elected and appointed under any such charter or Act as above-mentioned, and includes any other municipal or parochial office ; and the expressions "election," "election petition," "election court," and "register of electors," shall, where expressed to refer to an election for any such public office, be construed accordingly.

The expression "judicial office" includes the office of justice of the peace and revising barrister.

As to the form of indictment for corrupt practices, see *Reg.* v. *Stroulger*, 17 Q. B. D. 327 ; 55 L. J. M. C. 137 ; 55 L. T. (N.S.) 122 ; 34 W. R. 719 ; *Reg.* v. *Norton*, 16 Cox C. C. 59.

Each act of bribery is a distinct offence for which separate penalties are incurred : *Milnes* v. *Bale*, L. R. 10 C. P. 591 ; 44 L. J. C. P. 336 ; 33 L. T. (N.S.) 174 ; 23 W. R. 660 ; 39 J. P. 743.

Incapacity of candidate reported guilty of corrupt practice. 45 & 46 Vict. c. 50.

3.—(1) Where upon the trial of an election petition respecting a municipal election for a borough or ward of a borough it is found by the report of an election court made in pursuance of section ninety-three of the Municipal Corporations Act, 1882, that any corrupt practice, other than treating and undue influence, has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever holding a corporate office in the said borough, and if he has been elected his election shall be void ; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted of a corrupt practice.

(2) Upon the trial of an election petition respecting a municipal election for a borough or ward of a borough in which a

Section 3. charge is made of any corrupt practice having been committed in reference to such election, the election court shall report in writing to the High Court whether any of the candidates at such election has been guilty by his agents of any corrupt practice in reference to such election, and if the report is that any candidate at such election has been guilty by his agents of a corrupt practice in reference to such election, that candidate shall not be capable of being elected to or holding any corporate office in the said borough, during a period of three years from the date of the report, and if he has been elected, his election shall be void.

As this Act applies to elections of guardians and school boards, and as these elections may now be questioned by election petition under 45 & 46 Vict. c. 50, s. 87, the above section will apply with the necessary modifications, as to which see section 36, *post*.

For the incapacities consequent upon conviction for a corrupt practice, see the last section.

Illegal Practices.

Certain expenditure to be illegal practice.

4.—(1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be made—

(*a*) On account of the conveyance of electors to or from the poll whether for the hiring of horses or carriages, or for railway fares, or otherwise; or

(*b*) To an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice; or

(*c*) On account of any committee room in excess of the number allowed by this Act (that is to say), if the election is for a borough one committee room for the borough, and if the election is for a ward one committee room for the ward, and if the number of electors in such borough or ward exceeds two thousand, one additional committee room for every two thousand electors and incomplete part of two thousand electors, over and above the said two thousand.

By this section the conveyance of voters to the poll is not forbidden. It is only the payment for such conveyance which is prohibited. The provisions as to conveyance of voters cannot, of course, apply to the election of guardians.

With reference to (*b*) see sub-section (3).

(2) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is know-

ingly made in contravention of this section either before, during, or after a municipal election, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this Act, shall also be guilty of an illegal practice.

The exception above referred to is contained in sections 19—21, *post*.
The words "person receiving such payment" are presumed to mean "elector" in cases falling within sub-section 1 (*b*), as it does not appear to be illegal to make payments such as those mentioned in that clause to a person other than an elector. See also sub-section (3), *infra*.

(3) Provided that where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section.

Expense in excess of maximum to be illegal practice.

5.—(1) Subject to such exception as may be allowed in pursuance of this Act, no sum shall be paid and no expense shall be incurred by or on behalf of a candidate at an election, whether before, during, or after an election, on account of or in respect of the conduct or management of such election, save that in the case of an election of a councillor a sum may be paid and expense incurred not in excess of the maximum amount following; (that is to say,)

The sum of twenty-five pounds, and, if the number of electors in the borough or ward exceeds five hundred, an additional amount of threepence for each elector above the first five hundred electors.

(2) Any candidate or agent of a candidate or person who knowingly acts in contravention of this section shall be guilty of an illegal practice.

(3) Where there are two or more joint candidates at an election the maximum amount of expenses shall, for each of such joint candidates, be reduced by one-fourth, or if there are more than two joint candidates by one-third.

(4) Where two or more candidates at the election, by themselves or any agent or agents, hire or use the same committee rooms for such election, or employ or use the services of the same clerks, messengers, or polling agent at such election, or publish a joint address or joint circular or notice at such election, those candidates shall be deemed for the purposes of

Section 5.

this enactment to be joint candidates at such election: Provided that—

(*a*) The employment and use of the same committee room, clerk, messenger, or polling agent, if accidental or casual, or of a trivial and unimportant character, shall not be deemed of itself to constitute persons joint candidates:

(*b*) Nothing in this enactment shall prevent candidates from ceasing to be joint candidates:

(*c*) Where any excess of expenses above the maximum allowed for one of two or more joint candidates has arisen owing to his having ceased to be a joint candidate, or to his having become a joint candidate after having begun to conduct his election as a separate candidate, and such ceasing or beginning was in good faith, and such excess is not more than under the circumstances is reasonable, and the total expenses of such candidate do not exceed the maximum amount allowed for a separate candidate, such excess shall be deemed to have arisen from a reasonable cause within the meaning of the enactments respecting the allowance by the High Court or election court of an exception from the provisions of this Act which would otherwise make an act an illegal practice, and the candidate may be relieved accordingly from the consequences of having incurred such excess of expenses.

This section does not apply to the elections of guardians or school boards. See section 37, *post*.

Voting by prohibited persons and publishing of false statements of withdrawal to be illegal.

6.—(1) If any person votes or induces or procures any person to vote at a municipal election, knowing that he or such person is prohibited, whether by this or any other Act, from voting at such election, he shall be guilty of an illegal practice.

As to persons prohibited from voting by this Act, see sections 7, 8, 18, 22, 23, and sched. 3, part 2, *post*.

Persons who have been in receipt of relief on any day during the year last preceding an election are prohibited from voting at such election by 39 & 40 Vict. c. 61, s. 14. But the receipt of medical relief will not affect this disqualification except at an election of guardians. See 48 & 49 Vict. c. 46, *post*.

A convicted felon is disqualified to vote at any election until he has undergone his punishment or has been pardoned: 33 & 34 Vict. c. 23, s. 1.

(2) Any person who before or during a municipal election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or pro-

curing the election of another candidate shall be guilty of an illegal practice. Section 6.

(3) Provided that a candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this section committed without his knowledge and consent.

Punishment on conviction of illegal practice.

7. A person guilty of an illegal practice in reference to a municipal election, shall on summary conviction be liable to a fine not exceeding one hundred pounds and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at any election (whether it be a parliamentary election or an election for a public office within the meaning of this Act) held for or within the borough in which the illegal practice has been committed.

As to what is a public office, see section 34, *post*, and the note to section 2, *ante*.

As to the meaning of the terms "municipal election," "borough," &c., where applied to elections of guardians or school boards, see section 36, *post*.

Incapacity of candidate reported guilty of illegal practice. 45 & 46 Vict. c. 50.

8.—(1) An illegal practice within the meaning of this Act shall be deemed to be an offence against Part Four of the Municipal Corporations Act, 1882, and a petition alleging such illegal practice may be presented and tried accordingly.

Part IV. of the Municipal Corporations Act, 1882, is set out, *ante*, p. 136.

(2) Upon the trial of an election petition respecting a municipal election for a borough or ward of a borough in which a charge is made of any illegal practice having been committed in reference to such election, the election court shall report in writing to the High Court whether any of the candidates at such election has been guilty by himself or his agents of an illegal practice in reference to such election, and if the report is that a candidate at such election has been guilty by himself or his agents of an illegal practice in reference to such election, the candidate shall not be capable of being elected to or of holding any corporate office in the said borough during the period for which he was elected to serve, or for which if elected he might have served, and if he was elected, his election shall be void; and, if the report is that such candidate has himself been guilty of such illegal practice, he shall also be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice.

As to the election court, see section 92 of the Municipal Corporations Act, 1882, *ante*, p. 140.

For the incapacities consequent upon conviction for an illegal practice see section 2, *ante*.

Section 9.

Illegal Payment, Employment, and Hiring.

Providing of money for illegal practice or payment to be illegal payment.

9. Where a person knowingly provides money for any payment which is contrary to the provisions of this Act, or for any expenses incurred in excess of any maximum amount allowed by this Act, or for replacing any money expended in any such payment, except where the same may have been previously allowed in pursuance of this Act to be an exception, such person shall be guilty of illegal payment.

The provisions of the Act as to maximum expenses do not apply to the elections of guardians, school boards, &c. See section 37, *post*.

The exception referred to in the section is that provided for by sections 19—21, *post*.

Money paid for the employment of persons to keep order at meetings is an illegal payment: *Packard* v. *Collings*, 54 L. T. (N.S.) 619. Gratuitous refreshments to workers renders their employment illegal: *Barrow Election Petition*, *ib.* 618.

Employment of hackney carriages, or of carriages and horses kept for hire.

10.—(1) A person shall not let, lend, or employ for the purpose of the conveyance of electors to or from the poll at a municipal election, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which he keeps or uses for the purpose of letting out for hire, and if he lets, lends, or employs such carriage, horse, or other animal, knowing that it is intended to be used for the purpose of the conveyance of electors to or from the poll, he shall be guilty of illegal hiring.

(2) A person shall not hire, borrow, or use for the purpose of the conveyance of electors to or from the poll any carriage, horse, or other animal which he knows the owner thereof is prohibited by this section to let, lend, or employ for that purpose, and if he does so he shall be guilty of illegal hiring.

(3) Nothing in this Act shall prevent a carriage, horse, or other animal being let to or hired, employed, or used by an elector, or several electors at their joint cost, for the purpose of conveying him or them to or from the poll.

(4) No person shall be liable to pay any duty or to take out a license for any carriage by reason only of such carriage being used without payment or promise of payment for the conveyance of electors to or from the poll at an election.

This section does not apply to elections of guardians. See section 36, *post*. It does apply, however, to school board elections.

Corrupt withdrawal from a candidature.

11. Any person who corruptly induces or procures any other person to withdraw from being a candidate at a municipal election, in consideration of any payment or promise of pay-

ment, shall be guilty of illegal payment, and any person with- Section 11.
drawing in pursuance of such inducement or procurement shall also be guilty of illegal payment.

Certain expenditure to be illegal payment.

12.—(1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is made in contravention of this section, either before, during, or after an election, the person making such payment shall be guilty of illegal payment, and any person being a party to any such contract or receiving such payment shall also be guilty of illegal payment if he knew that the same was made contrary to law.

The exception above referred to is that provided for by sections 19—21, *post*.

Certain employment to be illegal.

13.—(1) No person shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except as follows (that is to say),

(*a*) A number of persons may be employed, not exceeding two for a borough or ward, and if the number of electors in such borough or ward exceeds two thousand one additional person may be employed for every thousand electors and incomplete part of a thousand electors over and above the said two thousand, and such persons may be employed as clerks and messengers, or in either capacity; and

(*b*) One polling agent may be employed in each polling station:

Provided that this section shall not apply to any engagement or employment for carrying into effect a contract *bonâ fide* made with any person in the ordinary course of business.

This enactment prohibits the payment of canvassers or agents.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any person is engaged or employed in contravention of this section, either before, during, or after an election, the person engaging or employing him shall be guilty of illegal employment, and the person so engaged or employed shall also

Section 13. be guilty of illegal employment if he knew that he was engaged or employed in contravention of this Act.

The exception referred to above is contained in sections 19—21, *post*. For cases where the court relieved candidates from the consequences of infringements of this section, see *Ex parte Darlington*, 53 J. P. 71; *Ex parte Lenanton*, *ib.* 263, and the cases mentioned in the notes to section 20, *post*.

(3) A person legally employed for payment under this section may or may not be an elector, but may not vote.

Name and address of printer on placards.

14. Every bill, placard, or poster having reference to a municipal election shall bear upon the face thereof the name and address of the printer and publisher thereof; and any person printing, publishing, or posting, or causing to be printed, published, or posted, any such bill, placard, or poster as aforesaid, which fails to bear upon the face thereof the name and address of the printer and publisher, shall, if he is a candidate, be guilty of an illegal practice, and if he is not the candidate, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

The appellant was a candidate for a seat in a local board. The respondent received from his own servant at his residence a printed address and letter having reference to the election, and purporting to be signed by the appellant, but having no printer's name thereon. This document was printed for publication by instructions conveyed to the printer in a letter from the appellant's brother, who resided with him. The printer debited the defendant with the cost of printing, but was not paid. It was held on these facts that there was no evidence that the appellant had "printed or caused to be printed" the document in question. Placards or posters, also without the printer's name and address, printed by the instructions of one E., who was advertised in a local newspaper as chairman of a committee for promoting the election of the appellant, and who sent the copy to the printer, were proved to have been posted about the district at E.'s expense. The court doubted whether this was evidence of the printing and posting by an agent of the appellant; but the justices having convicted the appellant in one penalty for both offences, and the conviction being bad as to the first—Held, that it was bad altogether: *Bettesworth* v. *Allingham*, 16 Q. B. D. 44; 34 W. R. 296; 50 J. P. 55.

In the above case the court seemed to assume that a circular containing an election address was a bill, placard, or poster within the meaning of the section. In some cases which came before the courts subsequently, it was held that such a circular was not a bill, placard or poster. See per Lord COLERIDGE, C.J., and MANISTY, J., in the cases reported in the *Times* Law Reports, Vol. V. p. 160, and per FRY, L.J. and MANISTY, J., *ib.* 170. In other cases, however, the court granted relief under section 20, so that the point is still in doubt.

The name and address of the publisher must appear as well as those of the printer if they are different persons. It has not yet been expressly decided whether a candidate is liable to penalties under this section if he publishes a placard, &c., on which his name and address appears, but which does not explicitly describe him as the publisher; but in the year 1889, the High Court excused a number of candidates in respect of such omissions.

A person other than a candidate is not by this section declared to be guilty of an illegal practice, payment, employment, or hiring. He cannot, therefore, be excused under section 20: *Ex parte Lenanton*, 53 J. P. 263.

Section 15.

Saving for creditors.

15. The provisions of this Act prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense, in excess of a certain maximum, shall not affect the right of any creditor who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Act.

See sections 9—13, *ante*. In the case of an expense incurred in contravention of the Act, the illegality of the expense will be no defence to an action by a creditor, who when the expense was incurred, was ignorant of its being in contravention of the Act. This provision is necessary for the protection of creditors who have no means of knowing what other expenses have been incurred by a candidate.

The provisions of the Act as to maximum expenses do not apply to the elections to which the Act is extended by section 36, *post*. See section 37, *post*.

Use of certain premises for committee rooms or meetings to be illegal hiring.

16.—(1) (*a*) Any premises, which are licensed for the sale of any intoxicating liquor for consumption on or off the premises, or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises, or

(*b*) Any premises where any intoxicating liquor is supplied to members of a club, society, or association, or any part of any such premises,

shall not, for the purpose of promoting or procuring the election of a candidate at a municipal election, be used either as a committee room or for holding a meeting, and if any person hires or uses any such premises or any part thereof in contravention of this section he shall be guilty of illegal hiring, and the person letting or permitting the use of such premises or part thereof, if he knew it was intended to use the same, in contravention of this section, shall also be guilty of illegal hiring.

It should be noticed that this section applies to any premises on which refreshment is sold for consumption on the premises, or on which liquor is sold, whether for consumption on or off the premises. Thus a place where sandwiches are sold for consumption at the counter was in one case which came before the court in 1889 held to be within this provision; but the section does not apply to a club unless liquor is supplied in it.

(2) Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

Punishment of illegal payment, employment, or hiring.

17.—(1) A person guilty of an offence of illegal payment, employment, or hiring shall, on summary conviction, be liable to a fine not exceeding one hundred pounds.

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(2) Where an offence of illegal payment, employment, or hiring is committed by a candidate, or with his knowledge and consent, such candidate shall be guilty of an illegal practice.

This offence will, therefore, be punishable under section 7, *ante*.

Avoidance of election for extensive illegal practices, &c.

18. Where upon the trial of an election petition respecting a municipal election for a borough or ward of a borough it is found by the election court that illegal practices or offences of illegal payment, employment, or hiring, committed in reference to such election for the purpose of promoting the election of a candidate at that election, have so extensively prevailed that they may be reasonably supposed to have affected the result of that election, the election court shall report such finding to the High Court, and the election of such candidate, if he has been elected, shall be void, and he shall not, during the period for which he was elected to serve, or for which, if elected, he might have served, be capable of being elected to or holding any corporate office in the said borough.

Excuse and Exception for Corrupt or Illegal Practice or Illegal Payment, Employment, or Hiring.

Report exonerating candidate in certain cases of corrupt and illegal practice by agents.

19. Where, upon the trial of an election petition respecting a municipal election, the election court reports that a candidate at such election has been guilty by his agents of the offence of treating and undue influence, and illegal practice, or of any of such offences, in reference to such election, and the election court further report that the candidate has proved to the court—

(*a*) That no corrupt or illegal practice was committed at such election by the candidate or with his knowledge or consent, and the offences mentioned in the said report were committed without the sanction or connivance of such candidate; and

(*b*) That all reasonable means for preventing the commission of corrupt and illegal practices at such election were taken by and on behalf of the candidate; and

(*c*) That the offences mentioned in the said report were of a trivial, unimportant, and limited character; and

(*d*) That in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents;

then the election of such candidate shall not, by reason of the

offences mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this Act. Section 19.

It should be observed that this section will not apply where it is reported that the agents have been guilty of bribery or procuring personation.

As to the election court, see section 92 of the Municipal Corporations Act, 1882, *ante*, p. 140.

Power of High Court and election court to except innocent act from being illegal practice, &c.

20. Where, on application made, it is shown to the High Court or to a municipal election court by such evidence as seems to the Court sufficient—

(*a*) that any act or omission of a candidate at a municipal election for a borough or ward of a borough, or of any agent or other person, would, by reason of being in contravention of any of the provisions of this Act, be but for this section an illegal practice, payment, employment, or hiring; and

(*b*) that such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and

(*c*) that such notice of the application has been given in the said borough as to the Court seems fit;

and under the circumstances it seems to the Court to be just that the said candidate, agent, and person, or any of them, should not be subject to any of the consequences under this Act of the said act or omission, the Court may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this Act of the said act or omission.

Relief may be given under this section by the High Court, on application for that purpose, or by an election court. As to the election court, see section 92 of the Municipal Corporations Act, 1882, *ante*, p. 140.

From the refusal of the High Court to grant relief under this section appeal lies to the Court of Appeal. *See Ex parte Walker*, 22 Q. B. D. 384; 58 L. J. Q. B. 190; 37 W. R. 293; 53 J. P. 261. See also *Ex parte Thomas*, 60 L. T. (N.S.) 728; *Times* Law Reports, vol. v. p. 234; *Ex parte Birtwhistle*, *ib.* 321.

In order to support an application under this section, it will not be sufficient that notice of intention to make the application has been advertised in the local papers, but such notice should be published in such a manner as will ensure a reasonable certainty that persons interested had notice; and it will also be insufficient in the affidavits upon which the application is made merely to state that the act in respect of which the relief is sought arose from inadvertence, and not from any want of good faith, without showing some reasonable excuse for such inadvertence: *Ex parte Perry*, 48 J. P. 824. In the cases which came before the court in 1889 it was laid down that "inadvertence" meant negligence or carelessness where the circum-

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NOTE.

stances showed an absence of bad faith. The court also required notice to be given to the opposing candidates and to the returning officer. The court also required that notices should be posted up throughout the district, and advertised in the local papers, that application would be made for relief. Notice need not, however, be given to the Attorney-General: *Ex parte Lenanton*, 53 J. P. 263.

There have been numerous applications to the High Court for excuse under this section, especially in the beginning of the year 1889, with reference to the first elections of county councillors. These cases will be found reported in the *Times* Law Reports, vol. v. pp. 173, 183, 195, 198, 203, 206, 220, and 272. They must not, however, be regarded as precedents, for the court granted relief almost as a matter of course where it was shown that the applicant had acted in ignorance of the law, but at the same time expressed an opinion that such an excuse would not afterwards be accepted.

Among the cases reported before 1889, may be mentioned the following:—*Ex parte Clark*, 52 L. T. (N.S.) 260, where placards had been issued without the printer's name; *Ex parte Terry*, where a room in a club had been used contrary to section 16; *South Shropshire Election*, *Times* Reports, vol. ii. p. 347, where payments were made after the proper time (and see *Ipswich Election Petition*, *Times* Reports, vol. iii. p. 397); *Ex parte Robson*, 18 Q. B. D. 336; 55 L. T. (N.S.) 813; 35 W. R. 290; 51 J. P. 199, where a candidate was allowed to make a return and declaration under section 21 after the prescribed time; *Ex parte Matthews*, *Times* Reports, vol. ii. p. 548, where a candidate had acted as his own agent and had omitted to make a declaration of expenses. In the case of *Essex (South-West Division) Election*, *Times* Reports, vol. ii. p. 388, where a person voted, and afterwards accepted payment for services rendered as an agent, the court refused to relieve him.

Where a person had obtained an excuse for a late return of expenses, and subsequently on the same day, but after the order had been drawn up, a voter appeared to oppose the application, it was held that the application of the voter must be dismissed in the absence of any sufficient explanation of the delay: *Wigan Election*, *Times* Reports, vol. ii. p. 159.

If the application is made by a person against whom a petition is pending the court will order the application to stand over till after the trial of the petition: *Ex parte Wilks*, 15 Q. B. D. 114; 55 L. J. Q. B. 576; 34 W. R. 273; 50 J. P. 487; *Ex parte Evans*, *Times* Reports, vol. v. p. 207. But this course will not be followed merely because a petition is threatened: *Ex parte Stephens*, *Times* Reports, vol. v. p. 203.

Sending in claims and making payments for election expenses.

21.—(1) Every claim against any person in respect of any expenses incurred by or on behalf of a candidate at an election of a councillor on account of or in respect of the conduct or management of such election shall be sent in within fourteen days after the day of election, and if not so sent in shall be barred and not paid, and all expenses incurred as aforesaid shall be paid within twenty-one days after the day of election, and not otherwise, and any person who makes a payment in contravention of this section, except where such payment is allowed as provided by this section, shall be guilty of an illegal practice, but if such payment was made without the sanction or connivance of the candidate, the election of such candidate shall not be void, nor shall he be subject to any incapacity under this Act by reason only of such payment having been made in contravention of this section.

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(2) Every agent of a candidate at an election of a councillor shall, within twenty-three days after the day of election, make a return to the candidate in writing of all expenses incurred by such agent on account of or in respect of the conduct or management of such election, and if he fails so to do shall be liable, on summary conviction, to a fine not exceeding fifty pounds.

(3) Within twenty-eight days after the day of election of a councillor every candidate at such election shall send to the town clerk a return of all expenses incurred by such candidate or his agents on account of or in respect of the conduct or management of such election, vouched (except in the case of sums under twenty shillings) by bills stating the particulars and receipts, and accompanied by a declaration by the candidate made before a justice in the form set forth in the Fourth Schedule to this Act, or to the like effect.

(4) After the expiration of the time for making such return and declaration the candidate, if elected, shall not, until he has made the return and declaration (in this Act referred to as the return and declaration respecting election expenses), or until the date of the allowance of such authorised excuse, as is mentioned in this Act, sit or vote in the council, and if he does so shall forfeit fifty pounds for every day on which he so sits or votes to any person who sues for the same.

(5) If the candidate, without such authorised excuse as is mentioned in this Act, fails to make the said return and declaration he shall be guilty of an illegal practice, and if he knowingly makes the said declaration falsely he shall be guilty of an offence, and on conviction thereof on indictment shall be liable to the punishment for wilful and corrupt perjury, and such offence shall also be deemed to be a corrupt practice within the meaning of this Act.

(6) The county court for the district in which the election was held, or the High Court, or an election court, may, on application either of the candidate or a creditor, allow any claim to be sent in and any expense to be paid after the time limited by this section, and a return of any sum so paid shall forthwith after payment be sent to the town clerk.

(7) If the candidate applies to the High Court or an election court, and shows that the failure to make the said return and declaration, or either of them, or any error or false statement therein, has arisen by reason of his illness or absence, or of the absence, death, illness, or misconduct of any agent, clerk, or officer, or by reason of inadvertence, or of any reasonable cause

Section 21. of a like nature, and not by reason of any want of good faith on the part of the applicant, the court may, after such notice of the application and on production of such evidence of the grounds stated in the application, and of the good faith of the applicant, and otherwise as to the court seems fit, make such order for allowing the authorised excuse for the failure to make such return and declaration, or for an error or false statement in such return or declaration, as to the court seems just.

(8) The order may make the allowance conditional upon compliance with such terms as to the court seems calculated for carrying into effect the objects of this Act, and the order shall relieve the applicant from any liability or consequences under this Act in respect of the matters excused by the order.

(9) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse.

(10) The return and declaration sent in pursuance of this Act to the town clerk shall be kept at his office, and shall at all reasonable times during the twelve months next after they are received by him be open to inspection by any person on payment of the fee of one shilling, and the town clerk shall, on demand, furnish copies thereof or of any part thereof at the price of twopence for every seventy-two words.

(11) After the expiration of the said twelve months the town clerk may cause the return and declaration to be destroyed, or if the candidate so require shall return the same to him.

This section does not apply to elections of guardians or school boards. See section 37, *post*.

Disqualification of Electors.

Prohibition of persons guilty of offences from voting.

22. Every person guilty of a corrupt or illegal practice or of illegal employment, payment, or hiring at a municipal election is prohibited from voting at such election, and if any such person votes his vote shall be void, and shall be struck off on a scrutiny.

This section applies to elections of guardians and school boards.

Application of sections 37 and 38 of 46 & 47 Vict. c. 51.

23. So much of sections thirty-seven and thirty-eight of the Corrupt and Illegal Practices Prevention Act, 1883, as is set forth in Part Two of the Third Schedule to this Act, shall apply as part of this Act.

See the schedule, *post*.

Section 24.

List in burgess roll of persons incapacitated for voting by corrupt or illegal practices.

24.—(1) The town clerk in every municipal borough shall annually in July make out a list containing the names and description of all persons who, though otherwise qualified to be enrolled as burgesses of such borough, have under this Act, or under the Corrupt and Illegal Practices Prevention Act, 1883, or under any other Act for the time being in force relating to a parliamentary election or an election to any public office, become after the commencement of this Act, by reason of conviction of a corrupt or illegal practice, or of the report of any election court or election commissioners, incapable of voting at a municipal election in such borough or any ward thereof, and the town clerk shall state in the list (in this Act referred to as the corrupt and illegal practices list) the offence of which each person has been found guilty.

(2) For the purpose of making out such list he shall examine the report of any election court or election commissioners who have respectively tried an election petition or inquired into an election where the election (whether a parliamentary election or an election to any public office) was held in the said borough or in the county in which such borough is situate.

(3) The town clerk of any municipal borough shall, not less than fourteen days before the first day appointed by law for the publication of the parish burgess lists in such borough, send the corrupt and illegal practices list to the overseers of every parish wholly or partly within the borough, and the overseers shall publish that list together with the parish burgess lists, and shall also, in the case of every person in the corrupt and illegal practices list, omit his name from the list of persons entitled to be enrolled as burgesses or to be elected councillors, or, as circumstances require, add "objected" before his name in the list of claimants published by them, in like manner as is required by law in any other cases of disqualification.

(4) Any person named in the corrupt and illegal practices list may claim to have his name omitted therefrom, and any person entitled to object to any parish burgess list may object to the omission of the name of any person from such first-mentioned list. Such claims and objections shall be sent in within the same time and be dealt with in like manner, and any such objection shall be served on the person referred to therein in like manner, as nearly as circumstances admit, as other claims and objections under the enactments relating to the enrolment of burgesses.

(5) The revising authority shall determine such claims and

Section 24. objections and shall revise such list in like manner, as nearly as circumstances admit, as in the case of other claims and objections and of any parish burgess list and list of persons entitled to be elected councillors.

(6) Where it appears to the revising authority that a person not named in the list is subject to have his name inserted in the corrupt and illegal practices list, he shall (whether an objection to the omission of such name from the list has or has not been made, but) after giving such person an opportunity of making a statement to show cause to the contrary, insert his name in that list and expunge his name from any list of burgesses or of persons entitled to be elected councillors.

(7) A revising authority in acting under this section shall determine only whether a person is incapacitated by conviction or by the report of any election court or election commissioners, and shall not determine whether a person has or has not been guilty of any corrupt or illegal practice.

(8) The corrupt and illegal practices list shall be appended to the burgess roll, and shall be printed and published therewith wherever the same is printed or published.

(9) Any town clerk or overseer who fails to comply with the provisions of this section shall be liable to the like fine as he is liable to under section seventy-five of the Municipal Corporations Act, 1882, for any neglect or refusal in relation to a parish burgess list as therein mentioned.

45 & 46 Vict. c. 50.

This section does not apply to elections of guardians or school boards. Section 36 (1) (*c*) provides that no corrupt and illegal practices list shall be made for any of the elections mentioned in the First Schedule.

Proceedings on Election Petitions.

Petition for illegal practice.

25.—(1) A municipal election petition complaining of the election on the ground of an illegal practice may be presented at any time before the expiration of fourteen days after the day on which the town clerk receives the return and declaration respecting election expenses by the candidate to whose election the petition relates, or where there is an authorised excuse for failing to make the return and declaration then within the like time after the date of the allowance of the excuse.

For the application of this provision to the elections of guardians, school boards, &c., see section 36 (1) (*b*), *post*.

Section 25.

Time for presentation of petition alleging illegal practices.

(2) A municipal election petition, complaining of the election on the ground of an illegal practice, and specifically alleging a payment of money or other act made or done since the election by the candidate elected at such election, or by an agent of the candidate, or with the privity of the candidate, in pursuance or in furtherance of such illegal practice, may be presented at any time within twenty-eight days after the date of such payment or act, whether or not any other petition against that person has been previously presented or tried.

(3) Any election petition presented within the time limited by the Municipal Corporations Act, 1882, may, for the purpose of complaining of the election upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition complaining of the election on the ground of that illegal practice can, under this section, be presented.

45 & 46 Vict. c. 50.

As to the time for presenting a petition alleging corrupt practices, see 45 & 46 Vict. c. 50, s. 88 (4), *ante*, p. 138.

(4) This section shall apply notwithstanding the illegal practice is also a corrupt practice.

Withdrawal of election petition.

26.—(1) Before leave for the withdrawal of a municipal election petition is granted, there shall be produced affidavits by all the parties to the petition and their solicitors, but the High Court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do.

As to the procedure for the withdrawal of a petition, see 45 & 46 Vict. c. 50, s. 95, *ante*, p. 144.

(2) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into, in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(3) The affidavits of the applicant and his solicitor shall further state the ground on which the petition is sought to be withdrawn.

(4) If any person makes any agreement or terms, or enters

Section 26. into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms, or undertaking is or are for the withdrawal of the election petition in consideration of any payment, or in consideration that the seat shall at any time be vacated, or in consideration of the withdrawal of any other election petition, or is or are (whether lawful or unlawful) not mentioned in the aforesaid affidavits, he shall be guilty of a misdemeanor, and shall be liable on conviction on indictment to imprisonment for a term not exceeding twelve months, and to a fine not exceeding two hundred pounds.

(5) Copies of the said affidavits shall be delivered to the Director of Public Prosecutions a reasonable time before the application for the withdrawal is heard, and the court may hear the Director of Public Prosecutions or his assistant or other representative (appointed with the approval of the Attorney-General), in opposition to the allowance of the withdrawal of the petition, and shall have power to receive the evidence on oath of any person or persons whose evidence the Director of Public Prosecutions or his assistant, or other representative, may consider material.

The Solicitor to the Treasury is now the Director of Public Prosecutions: 47 & 48 Vict. c. 58.

(6) Where in the opinion of the court the proposed withdrawal of a petition was the result of any agreement, terms, or undertaking prohibited by this section, the court shall have the same power with respect to the security as under section ninety-five of the Municipal Corporations Act, 1882, where the withdrawal is induced by a corrupt consideration.

45 & 46 Vict. c. 50.

See the section referred to, *ante*, p. 144.

(7) In every case of the withdrawal of an election petition, by leave of the election court such court shall report in writing to the High Court whether, in the opinion of such election court, the withdrawal of such petition was the result of any agreement, terms, or undertaking, or was in consideration of any payment, or in consideration that the seat should at any time be vacated, or in consideration of the withdrawal of any other election petition, or for any other consideration, and if so, shall state the circumstances attending the withdrawal.

(8) Where more than one solicitor is concerned for the petitioner or respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.

27. The trial of every municipal election petition shall, so far as is practicable consistently with the interests of justice in respect of such trial, be continued de die in diem on every lawful day until its conclusion. Section 27. Continuation of trial of election petition.

As to the adjournment of the trial, see 45 & 46 Vict. c. 50, s. 93 (11), *ante*, p. 143.

28.—(1) On every trial of a municipal election petition the Director of Public Prosecutions shall by himself or by his assistant, or by such representative as hereinafter mentioned, attend at the trial, and it shall be the duty of such Director to obey any directions given to him by the election court with respect to the summoning and examination of any witness to give evidence on such trial, and with respect to the prosecution by him of offenders, and with respect to any person to whom notice is given to attend with a view to report him as guilty of any corrupt or illegal practice. Attendance of Director of Public Prosecutions on trial of election petition, and prosecution by him of offenders.

The Solicitor to the Treasury is now the Director of Public Prssecutions: 47 & 48 Vict. c. 58.

(2) It shall also be the duty of such Director, without any direction from the election court, if it appears to him that any person is able to give material evidence as to the subject of the trial, to cause such person to attend the trial, and with the leave of the court to examine such person as a witness.

(3) It shall also be the duty of the said Director, without any direction from the election court, if he thinks it expedient in the interests of justice so to do, to prosecute, either before the said court or before any other competent court, any person who has not received a certificate of indemnity and who appears to him to have been guilty of a corrupt or illegal practice at a municipal election.

As to the certificate of indemnity, see 45 & 46 Vict. c. 50, s. 92, *ante*, p. 140.

(4) Where a person is prosecuted before an election court for any corrupt or illegal practice, and such person appears before the court, the court shall proceed to try him summarily for the said offence, and such person, if convicted thereof upon such trial, shall be subject to the same incapacities as he is subject to under this or any other Act, upon conviction, whether on indictment or in any other proceeding for the said offence; and further, may be adjudged by the court, if the offence is a corrupt practice, to be imprisoned, with or without hard labour, for a

Section 28. term not exceeding six months, or to pay a fine not exceeding two hundred pounds, and if the offence is an illegal practice, to pay such fine as is fixed by this Act for the offence:

Provided that, in the case of a corrupt practice, the court, before proceeding to try summarily any person, shall give such person the option of being tried by a jury.

(5) Where a person is so prosecuted for any such offence, and either he elects to be tried by a jury or he does not appear before the court, or the court thinks it in the interests of justice expedient that he should be tried before some other court, the court, if of opinion that the evidence is sufficient to put the said person upon his trial for the offence, shall order such person to be prosecuted on indictment or before a court of summary jurisdiction, as the case may require, for the said offence; and in either case may order him to be prosecuted before such court as may be named in the order; and for all purposes preliminary and of and incidental to such prosecution the offence shall be deemed to have been committed within the jurisdiction of the court so named.

The evidence which is to satisfy the court before it makes the order means the evidence given during the trial of the petition, and, therefore, a commissioner for the trial of municipal election petitions acted within his jurisdiction in ordering the prosecution of a person to whom he had refused a certificate of indemnity, and who did not appear, without re-hearing the evidence affecting him, and also acted within his jurisdiction in issuing a summons under sub-section (6), *post*, for his attendance before a court of summary jurisdiction for the purpose of being formally committed for trial: *Reg.* v. *Shellard*, 23 Q. B. D. 273; 58 L. J. M. C. 142; 61 L. T. (N.S.) 120; 37 W. R. 706; 53 J. P. 821.

(6) Upon such order being made,

(*a*) if the accused person is present before the court, and the offence is an indictable offence, the court shall commit him to take his trial, or cause him to give bail to appear and take his trial for the said offence; and

(*b*) if the accused person is present before the court, and the offence is not an indictable offence, the court shall order him to be brought before the court of summary jurisdiction before whom he is to be prosecuted, or cause him to give bail to appear before that court; and

(*c*) if the accused person is not present before the court, the court shall as circumstances require issue a summons for his attendance, or a warrant to apprehend him and bring him before a court of summary jurisdiction, and

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that court, if the offence is an indictable offence, shall, on proof only of the summons or warrant and the identity of the accused, commit him to take his trial, or cause him to give bail to appear and take his trial for the said offence, or if the offence is punishable on summary conviction, shall proceed to hear the case, or if such court be not the court before whom he is directed to be prosecuted shall order him to be brought before that court.

(7) Any order or act of an election court under this section shall not be subject to be discharged or varied under sub-section six of section ninety-two of the Municipal Corporations Act, 1882. 45 & 46 Vict. c. 50.

See the section referred to, *ante*, p. 141.

(8) The Director of Public Prosecutions may nominate, with the approval of the Attorney-General, any barristers or solicitors of not less than ten years standing, one of whom shall, when required, act as the representative for the purposes of this section of such Director, and when so acting shall receive such remuneration as the Treasury may approve. There shall be allowed to the Director and his assistant or representative, for the purposes of this section, such allowance for expenses as the Treasury may approve.

(9) The costs incurred in defraying the expenses of the Director of Public Prosecutions under this section (including the remuneration of his representatives) shall, in the first instance, be paid by the Treasury, and so far as they are not in the case of any prosecution paid by the defendant, shall be deemed to be expenses of the election court, and shall be paid as the expenses of that court are directed by section one hundred and one of the Municipal Corporations Act, 1882, to be paid; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of the said costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct. 45 & 46 Vict. c. 50.

If a petition is utterly unfounded the petitioner may be ordered to pay the costs of the Director of Public Prosecutions: *Kennington Election Petition*, 54 L. T. (N.S.) 628. But the provision in the text applies only to the trial of a petition. The costs of the Public Prosecutor cannot be ordered where the petition is withdrawn: *Devonport Election Petition*, 54 L. T. (N.S.) 733; 50 J. P. 135.

Section 29.

Power to election court to order payment by borough or individual of costs of election petition.

29.—(1) Where upon the trial of a municipal election petition it appears to the election court that a corrupt practice has not been proved to have been committed in reference to the election by or with the knowledge and consent of the respondent to the petition, and that such respondent took all reasonable means to prevent corrupt practices being committed on his behalf, the court may make one or more orders with respect to the payment either of the whole or such part of the costs of the petition as the court may think right as follows;

(*a*) if it appears to the court that corrupt practices extensively prevailed in reference to the said election, the court may order the whole or part of the costs to be paid by the borough; and

(*b*) if it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to such election, the court may, after giving such person or persons an opportunity of being heard by counsel or solicitor and of examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person, or those persons or any of them, and may order that if the costs cannot be recovered from one or more of such persons they shall be paid by some other of such persons or by either of the parties to the petition.

In elections of guardians the costs might be ordered to be paid out of the common fund: see section 32, 36, *post*.

See *Reg.* v. *Maidenhead* (*Mayor of*), *ante*, p. 151.

(2) Where any person appears to the court to have been guilty of the offence of a corrupt or illegal practice, the court may, after giving such person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to the said offence or to the said person to be paid by the said person to such person or persons as the court may direct.

(3) The rules and regulations of the Supreme Court of Judicature with respect to costs to be allowed in actions, causes, and matters in the High Court shall in principle and so far as practicable apply to the costs of petition and other proceedings

under Part Four of the Municipal Corporations Act, 1882, and this Act, and the taxing officer shall not allow any costs, charges, or expenses on a higher scale than would be allowed in any action, cause, or matter in the High Court on the higher scale, as between solicitor and client. Section 29. 45 & 46 Vict. c. 50.

As to the taxation of costs, see rule 68, *post*.

Miscellaneous.

30. Subject to the other provisions of this Act, the procedure for the prosecution of a corrupt or illegal practice or any illegal payment, employment, or hiring committed in reference to a municipal election, and the removal of any incapacity incurred by reason of a conviction or report relating to any such offence, and the duties of the Director of Public Prosecutions in relation to any such offence, and all other proceedings in relation thereto (including the grant to a witness of a certificate of indemnity), shall be the same as if such offence had been committed in reference to a parliamentary election; and sections forty-five and forty-six and sections fifty to fifty-seven (both inclusive), and sections fifty-nine and sixty of the Corrupt and Illegal Practices Prevention Act, 1883, shall apply accordingly as if they were re-enacted in this Act with the necessary modifications, and with the following additions:— General provisions as to prosecution of offences under this Act. 46 & 47 Vict. c. 51.

(*a*) Where the Director of Public Prosecutions considers that the circumstances of any case require him to institute a prosecution before any court other than an election court for any offence other than a corrupt practice committed in reference to a municipal election in any borough, he may, by himself or his assistant, institute such prosecution before any court of summary jurisdiction in the county in which the said borough is situate or to which it adjoins, and the offence shall be deemed for all purposes to have been committed within the jurisdiction of such court; and

(*b*) General rules for the purposes of Part Four of the Municipal Corporations Act, 1882, shall be made by the same authority as rules of court under the said sections; and 45 & 46 Vict c. 50.

(*c*) The giving or refusal to give a certificate of indemnity to a witness by the election court shall be final and conclusive. s. 94 (7).

The 46 & 47 Vict. c. 51, s. 45, requires the Director of Public Prosecutions (now the Solicitor to the Treasury, 47 & 48 Vict. c. 58) to inquire

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into alleged corrupt or illegal practices; section 46 provides for the removal of incapacity on the ground that it was procured by perjury; sections 50—57 relate to legal proceedings; section 59 relates to the obligation of a witness to answer and the certificate of indemnity; and section 60 provides for the submission of the report of an election court to the Attorney-General.

As to the rules for the purposes of Part IV. of the Municipal Corporations Act, 1882, see section 100 of that Act, *ante*, p. 148. The rules now in force are set out after this Act.

Person incapacitated by conviction or report to vacate seat or office.

31. If any person, in consequence of conviction or of the report of an election court under this Act, becomes not capable of being elected to or sitting in the House of Commons, or of being elected to or holding any public or judicial office, and such person, at the date of the said conviction or report, has been so elected or holds any such office, then his seat or office, as the case may be, shall be vacated as from that date.

For the definition of a public or judicial office, see the note to section 2, *ante*, and 46 & 47 Vict. c. 51, s. 64, *ante*, p. 253.

Payment and recovery of costs.

32.—(1) Where any costs of a petition are, under an order of a municipal election court, to be paid by a borough, such costs shall be paid out of the borough fund or borough rate.

(2) Where any costs or other sums are, under the order of an election court or otherwise under this Act, to be paid by any person, those costs shall be a simple contract debt due from such person to the person or persons to whom they are to be paid, and if payable to the Treasury shall be a debt to Her Majesty, and in either case may be recovered accordingly.

For the rate or fund corresponding to the borough fund or rate in elections of guardians, &c., see section 36, *post*.

Service of notices.

33. Where any summons, notice, or document is required to be served on any person with reference to any proceeding respecting a municipal election in any borough or ward of a borough, whether for the purpose of causing him to appear before the High Court or any election court, or otherwise, or for the purpose of giving him an opportunity of making a statement, or showing cause, or being heard by himself, before any such court, for any purpose of this Act, such summons, notice, or document may be served either by delivering the same to such person, or by leaving the same at, or sending the same by post by a registered letter to, his last known place of abode in the said borough, or, if the proceeding is before any court, in such other manner as the court may direct, and in proving such service by post it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered with the post office.

34. In this Act expressions have the same meaning as in the Municipal Corporations Act, 1882, and in the Corrupt and Illegal Practices Prevention Act, 1883; except that the words "borough," "election petition," "election court," and "candidate," shall, unless the context otherwise requires, have the meaning given by the Municipal Corporations Act, 1882, and not the meaning given by the Corrupt and Illegal Practices Prevention Act, 1883; and except that "election" shall, unless the context otherwise requires, mean a municipal election. Section 34. Definitions. 45 & 46 Vict. c. 50. 46 & 47 Vict. c. 51.

For the purposes of this Act the number of electors shall be taken according to the enumeration of the electors in the burgess roll.

See the definitions contained in the Municipal Corporations Act, 1882, section 77, *ante*, p. 136.

35. This Act and Part IV. of the Municipal Corporations Act, 1882, shall apply to a municipal election in the city of London, subject as follows:— Application to city of London of Act and of Part IV. of 45 & 46 Vict. c. 50.

(1) For the purpose of such application "municipal election" means an election to the office of mayor, alderman, common councilman, or sheriff, and includes the election of any officer elected by the mayor, aldermen, and liverymen in common hall, and the expression "corporate office" includes each of the aforesaid offices, and the expression "borough" shall be deemed to apply to the said city:

(2) The expression "burgess" means, in relation to each municipal election, any person entitled to vote at such election:

(3) Any costs or expenses directed to be paid out of the borough fund or borough rate shall, if incurred in respect of the election of an alderman or common councilman for any ward, be paid out of the ward rate of that ward, and in any other case shall be paid by the chamberlain of the said city out of the city's cash:

(4) The enactments relating to personation, polling agents, and disclosure of votes shall not apply, save that if any person commits any offence under the City of London Municipal Elections Amendment Act, 1867, in relation to the declaration required by that Act to be made at the poll, he shall, in addition, be deemed guilty of a corrupt practice under this Act: 30 Vict. c. 1.

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(5) A vacancy in any office created by the decision of an election court shall be filled by a new election, and every summoning officer is hereby authorised and required to summon the electors for such election:

(6) In the case of an election of an alderman and common councilman a sum may be paid and expense incurred not in excess of the maximum fixed by this Act for the election of a councillor.

(7) In the case of an election by liverymen in common hall a sum may be paid and expenses incurred, if a poll be not demanded, not exceeding forty pounds, and, if a poll be demanded, then not exceeding two hundred and fifty pounds, and, in the event of a poll being demanded, such poll shall take place on the third day after the demand for a poll be made, unless such third day be a Sunday, in which case the poll shall take place on the fourth day, and the poll shall last for one day only, and commence at the hour of eight in the morning and close at six in the evening.

(8) The town clerk shall send the corrupt and illegal practices list, when made out by him, to the ward clerk of each ward not less than fourteen days before the day on which the list of persons entitled to vote in such ward is required to be made out, and the aldermen and common councilmen of each ward shall omit from such last-mentioned list the names of all persons mentioned in the corrupt and illegal practices list, and the corrupt and illegal practices list shall be printed and appended to every copy of the list of persons entitled to vote in such ward.

Application of Act to other elections.

Application of this Act and Part IV. of 45 & 46 Vict. c. 50, to other elections.

36.—(1) Subject as hereinafter mentioned, the provisions of this Act and of Part Four of the Municipal Corporations Act, 1882, as amended by this Act, shall extend to elections for the offices mentioned in the first column of the First Schedule to this Act as if re-enacted herein and in terms made applicable thereto, and petitions may be presented and tried, and offences prosecuted and punished, and incapacities incurred in reference to each such election accordingly.

Provided that in the application of the said provisions to any such election:

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(*a*) The area, officer, and rate mentioned opposite to the office in the second, third, and fourth columns of the said schedule, shall be deemed to be substituted for the borough or ward, town clerk, and borough fund or rate respectively.

(*b*) The expression "corporate office" in the said provisions shall mean an office mentioned in the said schedule, and in relation to the election of a guardian of a union includes any such office in the union, and "a municipal election" shall mean an election to such office, and the expressions "municipal election court," "municipal election list," and "municipal election petition," shall be construed accordingly.

(*c*) No corrupt and illegal practices list shall be made for any such election.

(*d*) Vacancies created by the decision of an election court shall be filled by a new election.

(*e*) A petition relating to the election of a guardian of a union may be tried at any place within the union.

(*f*) Nothing in the said provisions shall render it unlawful to hold a meeting for the purpose of promoting or procuring the election of a candidate to any office mentioned in the said schedule on any licensed or other premises not situate in an urban sanitary district or in the Metropolis;

This provision makes an exception to section 16, *ante*, p. 301.

(*g*) Where the poll at any election to an office in the said schedule is taken by means of voting papers, such of the said provisions as relate to personation, polling agents, disclosure of votes and conveyance of voters, shall not apply; but any offence in relation to voting papers or to personation or to voting at such election which is punishable on summary conviction (that is to say), the offences mentioned in section three of the Poor Law Amendment Act, 1851, and in rule sixty-nine of Schedule Two to the Public Health Act, 1875, shall, without prejudice to the punishment under such section and rule of a person guilty of such offence, be deemed to be an illegal practice within the meaning of the said provisions.

14 & 15 Vict. c. 105. 38 & 39 Vict. c. 55.

This provision will apply to elections of guardians. The 14 & 15 Vict. c. 105, s. 3, provides as follows:—If any person, pending or after the elec-

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tion of any guardian or guardians, shall wilfully, fraudulently, and with intent to affect the result of such election, commit any of the acts following: that is to say, fabricate in whole or in part, alter, deface, destroy, abstract, or purloin any nomination or voting paper used therein; or personate any person entitled to vote at such election; or falsely assume to act in the name or on the behalf of any person so entitled to vote; or interrupt the distribution or collection of the voting papers; or distribute or collect the same under a false pretence of being lawfully authorised to do so; every such person so offending shall for every such offence be liable, upon conviction thereof before any two justices, to be imprisoned in the common gaol or house of correction for any period not exceeding three months, with or without hard labour.

The following cases have been decided upon the construction of this section:—The appellant was charged with unlawfully assuming to act for one John Hewitson, a voter, in an election of guardians. The appellant went to the voter's house, and the mother and brother telling him the voting paper was not filled up, offered to fill it up, and then put in a candidate's name without asking them which candidate. The paper afterwards was counted for that candidate. Held, though there might have been evidence to convict of fabricating a voting paper, the appellant was wrongfully convicted of assuming to act, as it was not proved that John Hewitson did not afterwarde agree to the filling up of the paper: *Bell* v. *Morson*, 40 L. T. (N.S.) 128; 43 J. P. 174.

At an election of guardians a voter's wife told W. that she had authority from her husband to fill up his voting paper, and W. thereupon caused her to put her mark on the voting paper, he putting the voter's initials opposite the candidate's name and attesting the paper, which was received as if duly marked, &c., by the voter himself. W. having been convicted under 14 & 15 Vict. c. 105, s. 3, of unlawfully fabricating a voting paper, it was held there was no evidence to justify the conviction: *Wickham* v. *Phillips*, 47 J. P. 612.

When the person who should have been so entitled is dead, and he is personated at the election, the case is not provided for by this section: *Whiteley* v. *Chappell*, L. R. 4 Q. B. 147; 38 L. J. M. C. 51; 17 W. R. 175; 19 L. T. (N.S.) 355; 33 J. P. 244.

Where a person signed the name of a voter to a paper with the consent of the voter's wife, but without his knowledge, and believing that he might do so, it was held that he was not liable to a penalty under the corresponding enactment in 21 & 22 Vict. c. 98, s. 13: *Aberdare Local Board* v. *Hammett*, L. R. 10 Q. B. 162; 44 L. J. M. C. 49; 32 L. T. (N.S.) 20; 39 J. P. 69.

(*h*) The Local Government Board shall have the same power as heretofore under section eight of the Poor Law Amendment Act, 1842, to determine any question arising as to the right of a person to act as guardian, except that the Board shall not have power—

5 & 6 Vict. c. 57.

(a) To determine, until after the expiration of twenty-one days after the election of a person as guardian, any question which can be determined upon an election petition under this section; nor

(b) To determine any question which is raised by an election petition under this section, and

is either awaiting decision or has been decided by an election court; nor

(c) To determine any question of general corruption, or of any corrupt or illegal practice, except so far as appears to such Board necessary for determining the validity of any vote.

The 5 & 6 Vict. c. 57, s. 8, provides as follows:—In case any question shall arise as to the right of any person to act as an elective guardian, it shall be lawful for the (Local Government Board), if they shall see fit, to inquire into the circumstances of the case, and to issue such order or orders therein, under their hands and seal, as they may deem requisite for determining the question; and no such order shall be liable to be removed by writ of *certiorari* into the Court of Queen's Bench unless the application for such writ shall be made during the term next after the issuing of such order. This section is now qualified by the text.

(2) The judges for the time being on the rota for the trial of parliamentary election petitions, or any two of those judges, may annually appoint as many barristers, not exceeding five, as they may think necessary to be commissioners for the trial of election petitions under Part Four of the Municipal Corporations Act, 1882, and this Act, and shall from time to time assign the petitions (whether relating to a municipal election or to any other election to which this Act extends) to be tried by each commissioner.

Exemption from provisions as to maximum expenses.

37. The provisions of this Act which prohibit the payment of any sum, and the incurring of any expense by or on behalf of a candidate at an election, on account of, or in respect of, the conduct or management of the election, and those which relate to the time for sending in and paying claims, and those which relate to the the maximum amount of election expenses, or the return or declaration respecting election expenses, shall not apply to any of the elections mentioned in the First Schedule to this Act.

The application of this section has been noted under each section which it modifies with respect to the scheduled elections.

Repeal.

Repeal of Acts.

38. The Acts specified in the Second Schedule to this Act are hereby repealed as from the commencement of this Act to the extent in the third column of that schedule mentioned, but such repeal shall not affect anything duly done or suffered, or any right acquired or accrued, or any incapacity incurred, before the commencement of this Act; and any person subject to any

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incapacity under any enactment hereby repealed, or under any enactment for which such repealed enactment was substituted, shall continue subject thereto, and this Act shall apply to him as if he had become so subject in pursuance of the provisions of this Act.

Commencement of Act.

39. This Act shall come into operation on the first day of October, one thousand eight hundred and eighty-four, which day is in this Act referred to as the commencement of this Act.

Extent of Act.

Act not to extend to Scotland or Ireland.

40. This Act shall not extend to Scotland or Ireland.

Duration of Act.

41. This Act shall continue in force to the end of the year one thousand eight hundred and eighty-six, and no longer.

SCHEDULES.

FIRST SCHEDULE.

Section 36.

ELECTIONS to which this Act extends.

In England.

Office.	Area.	Officer.	Rate.
Member of local board, as defined by the Public Health Act, 1875.	Local Government district or ward of such district.	Clerk to the local board, or person performing like duties.	The general district rate.
Member of Improvement Commissioners, as defined by the Public Health Act, 1875.	Improvement Act district or ward of such district.	Clerk to the Improvement Commissioners, or person performing like duties.	The general district rate or other rate out of which the expenses of the Improvement Commissioners are payable.
Guardian elected under the Poor Law Amendment Act, 1834.	Parish or ward of a parish or united parishes.	Clerk to the guardians, or person performing like duties.	The poor rate of the parish or united parishes.
Member of school board.	School district or division of the metropolis.	Returning officer of school board.	The school fund.

SECOND SCHEDULE.

Schedule 2.

ENACTMENTS REPEALED.

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A description or citation of a portion of an Act is inclusive of the words, section, or other part first and last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

As to England.

33 & 34 Vict. c. 75.	The Elementary Education Act, 1870.	Section thirty-three.
45 & 46 Vict. c. 50.	The Municipal Corporations Act, 1882.	Section seventy-seven, from "corrupt practice" down to "or personation," and from "canvasser" down to "candidate at a municipal election." Section seventy-eight. Section seventy-nine. Section eighty. Section eighty-two. Section eighty-three. Section eighty-four. Section ninety-two, sub-section four, from "and those judges" down to the end of the sub-section. Section ninety-four, subsections five, six, seven, and eight. So much of section ninety-eight, sub-section two, as relates to the principles of taxation.

THIRD SCHEDULE.

PART I.

Enactments defining Corrupt Practices.—Enactments defining the Offence of Bribery. Section 2.

The Corrupt Practices Prevention Act, 1854, 17 & 18 Vict. c. 102, sections 2 and 3.

S. 2. The following persons shall be deemed guilty of bribery, and shall be punishable accordingly :— Bribery defined.

(1) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise, or promise to procure

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or endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election.

(2) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure or endeavour to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of any voter having voted or refrained from voting at any election.

(3) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election.

(4) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure, or engage, promise, or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election.

(5) Every person who shall advance or pay, or cause to be paid, any money to or to the use of any other person with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election: Provided always, that the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for on account of any legal expenses *bonâ fide* incurred at or concerning any election.

Bribery further defined.

S. 3. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly:—

(1) Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or from refraining or agreeing to refrain from voting at any election.

(2) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.

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The Representation of the People Act, 1867,
30 & 31 Vict. c. 102, s. 49.

Corrupt payment of rates to be punishable as bribery.

S. 49. Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at the future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section is mentioned is made, shall also be guilty of bribery, and punishable accordingly.

It is beyond the scope of the present work to enter into a detailed discussion of the law relating to bribery and other corrupt practices. For information on this subject the reader is referred to works on the law of election. One or two recent decisions may, however, be mentioned.

As to corrupt employment, see *Harding* v. *Stokes*, 1 M. & W. 354; 2 M. & W. 233; giving money after election, *Reg.* v. *Thwaites*, 1 E. & B. 704; 22 L. J. Q. B. 238.

Y. canvassed M., a voter at a municipal election, for his party, and on M. expressing an intention not to vote, told M. he would be remunerated for loss of time. It was held that this was bribery: *Simpson* v. *Yeend*, 33 J. P. 677; L. R. 4 Q. B. 626; 38 L. J. Q. B. 313.

"In order to make the payment of a rate for the purpose of enabling voters to be registered affect the election, you must prove that it was done corruptly; that it was done thereby to influence their votes, which in my judgment means to induce them to vote for the person on whose behalf the payment was made." Per MARTIN, B., *Cheltenham Election*, 1 O'M. & H. 63. In order to make a third party responsible for the payment of a rate, it must be proved that he gave authority to the person to do the act. The common law rules of agency, therefore, and not those of election law, apply to this case: *Wigan Election*, 1 O'M. & H. 190; *Ward's Practice at Elections*, p. 158.

A single case of bribery avoids an election: *Norwich Election Petition*, 54 L. T. (N.S.) 625.

To offer a voter his travelling expenses if he will come and vote for a particular candidate is bribery: *Packard* v. *Collings*, 54 L. T. (N.S.) 619.

Enactment defining the Offence of Personation.

The Ballot Act, 1872, 35 & 36 Vict. c. 33, s. 24.

Personation defined.

S. 24. A person shall, for all purposes of the laws relating to parliamentary and municipal elections, be deemed to be guilty of the offence of personation who, at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or deed, or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name.

H. obtained a voting paper signed by B., who was entitled to vote in an election of councillors, and gave it to F., requesting F. to go with it to the poll and vote for two candidates, and stating that F. would run no risk in doing so. F. went and handed in the paper, but on being questioned admitted that he was not B., and the vote was not received. It was held that H. was properly convicted under 22 Vict. c. 35, s. 9, of inducing F. to personate a voter. It was held further, that it was sufficient for the conviction to state that H. induced F. to personate B., and that it need

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NOTE.

not set out the details of the process by which F. carried out the personation: *Hague* v. *Brown*, 22 J. P. 231; 33 L. J. M. C. 81; 9 L. T. (N.S.) 648; 12 W. R. 310.

If a man applies to the presiding officer for a ballot paper in a name other than his name of origin, or in the name by which he is generally known, but in a name which appears on the register, and which was inserted by the overseers in the belief that it was the name of the applicant, and for the purpose of putting him on the register, he is entitled to vote, and is not a person who "applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person:" *Reg.* v. *Fox*, 16 Cox C. C. 166.

Enactments defining the Offences of Treating and Undue Influence.

The Corrupt and Illegal Practices Prevention Act, 1883, 46 & 47 Vict. c. 51, ss. 1 and 2.

What is treating.

S. 1. Any person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of treating.

And every elector who corruptly accepts or takes any such meat, drink, entertainment, or provision, shall also be guilty of treating.

What is undue influence.

S. 2. Every person who shall directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who shall by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election, shall be guilty of undue influence.

Treating is not the entertainment of equals by equals, but of an inferior by a superior, with the object of securing the good will of the inferior: *Norwich Election Petition*, 54 L. T. (N.S.) 625. Giving a school feast was held not to be treating in the *Aylesbury Election Petition*, 4 O'M. & H. 59. It must be proved that the voter got his refreshment on account of his having polled or being about to poll. Per MANISTY, J., in *Hargreaves* v. *Simpson*, 4 Q. B. D. 403; 43 J. P. 767.

Enactment defining the Offences of Bribery, Treating, Undue Influence, and Personation.

The Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, s. 77.

Definitions.

S. 77. "Bribery," "treating," "undue influence," and "personation" include respectively anything done before, at, after, or with respect to a municipal election, which, if done before, at, after, or with respect to a parliamentary election, would make the person

doing the same liable to any penalty, punishment, or disqualification for bribery, treating, undue influence, or personation, as the case may be, under any Act for the time being in force with respect to parliamentary elections. Schedule 3.

PART II.

Enactments relating to Disqualification of Electors. Section 23.

The Corrupt and Illegal Practices Prevention Act, 1883, 46 & 47 Vict. c. 51, ss. 37, 38.

S. 37. Every person who, in consequence of conviction or of the report of any election court or election commissioners under this Act, or under the Corrupt Practices (Municipal Elections) Act, 1872, or under Part IV. of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to corrupt practices at an election for any public office, has become incapable of voting at any election, whether a parliamentary election or an election to any public office, is prohibited from voting at any such election, and his vote shall be void. Prohibition of disqualified persons from voting. 35 & 36 Vict. c. 60; 45 & 46 Vict. c. 50.

S. 38.—(1) Before a person, not being a party to an election petition nor a candidate on behalf of whom the seat is claimed by an election petition, is reported by an election court . . . to have been guilty, at an election, of any corrupt or illegal practice, the court . . . shall cause notice to be given to such person, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported. Hearing of person before he is reported guilty of corrupt or illegal practice, and incapacity of person reported guilty.

It has been held that this section excludes the right of a person charged with any corrupt or illegal practice at a municipal election to be heard by his counsel or solicitor: *Reg.* v. *Mansel Jones*, 23 Q. B. D. 29.

* * * * *

(5) Every person who, after the commencement of this Act, is reported by any election court . . . to have been guilty of any corrupt or illegal practice at an election, shall, whether he obtained a certificate of indemnity or not, be subject to the same incapacity as he would be subject to if he had at the date of such election been convicted of the offence of which he is reported to have been guilty . . .

(6) Where a person who is a justice of the peace is reported by any election court . . . to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to report the case to the Lord High Chancellor of Great Britain, with such evidence as may have been given of such corrupt practice, and where any such person acts as a justice of the peace by virtue of his being or having been mayor of a borough, the Lord High Chancellor shall have the same power to remove such person from being a justice of the peace as if he was named in a commission of the peace.

(7) Where a person who is a barrister or a solicitor, or who belongs to any profession the admission to which is regulated by law, is

Schedule 3.

reported by any election court . . . to have been guilty of any corrupt practice in reference to an election, whether such person has obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions, to bring the matter before the Inn of Court, High Court, or tribunal having power to take cognizance of any misconduct of such person in his profession, and such Inn of Court, High Court, or tribunal may deal with such person in like manner as if such corrupt practice were misconduct by such person in his profession.

(8) With respect to a person holding a license or certificate under the Licensing Acts (in this section referred to as a licensed person) the following provisions shall have effect :—

(*a*) If it appears to the court by which any licensed person is convicted of the offence of bribery or treating that such offence was committed on his licensed premises, the court shall direct such conviction to be entered in the proper register of licenses :

(*b*) If it appears to an election court . . . that a licensed person has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises, such court . . . (subject to the provisions of this Act as to a person having an opportunity of being heard by himself and producing evidence before being reported) shall report the same ; and, whether such person obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to bring such report before the licensing justices from whom or on whose certificate the licensed person obtained his license, and such licensing justices shall cause such report to be entered in the proper register of licenses :

(*c*) Where an entry is made in the register of licenses of any such conviction of or report respecting any licensed person as above in this section mentioned, it shall be taken into consideration by the licensing justices in determining whether they will or will not grant to such person the renewal of his license or certificate, and may be a ground, if the justices think fit, for refusing such renewal.

* * * * *

Section 21.

FOURTH SCHEDULE.

Form of Declaration by Candidate as to Expenses.

I , having been a candidate at the election of councillor for the borough [or ward] of , on the day of [and my agents do hereby solemnly and sincerely declare that I have paid] for my expenses at the said election, and that, except as aforesaid, I have not, and to the best of my knowledge and belief, no person, nor any club, society, or association, has on my behalf, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election.

Schedule 4.

And I further solemnly and sincerely declare that, except as aforesaid, no money, security, or equivalent for money, has to my knowledge or belief been paid, advanced, given, or deposited by any one to or in the hands of myself, or any other person, for the purpose of defraying any expenses incurred on my behalf on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that I will not at any future time make or be a party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be a party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expenses.

Signature of declarant *C.D.*

Signed and declared by the above-named declarant on the day of , before me.

(Signed) *E.F.*
Justice of the Peace for .

GENERAL RULES.

The following are the General Rules made pursuant to the Municipal Corporations Act, 1882, section 100, and the Municipal Elections (Corrupt Practices) Act, 1884, section 30, *ante*.

I. The presentation of a Municipal Election Petition shall be made by leaving it at the office of the Master for the time being nominated as prescribed officer, under the Parliamentary Elections Act, 1868, and such Master or his clerk shall (if required) give a receipt which may be in the following form:—

> Received on the day of at the Master's office a petition touching the election of *A.B.*, alderman, councillor, [&c., *as the case may be*] for the borough of purporting to be signed by [*insert the names of petitioners*].
>
> *C.D.*, Master's Clerk.

With the petition shall also be left a copy thereof for the Master to send to the town clerk, pursuant to section 88, sub-section (3), of the Act.

II. A municipal election petition shall contain the following statements:

(1) It shall state the right of the petitioner or petitioners to petition within section 88, sub-section (1), of the Act.

(2) It shall state the holding and result of the election, and shall briefly state the facts and grounds relied on to sustain the prayer.

III. The petition shall be divided into paragraphs, each of which, as nearly as may be, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively, and no costs shall be allowed of drawing or copying any petition not substantially in compliance with this rule, unless otherwise ordered by the High Court or a judge thereof.

IV. The petition shall conclude with a prayer, as, for instance, that some specified person should be declared duly returned or elected, or

Rule 4. that the election should be declared void, or that a return may be enforced, (as the case may be,) and shall be signed by all the petitioners.

V. The following form, or one to the like effect, shall be sufficient:—

In the High Court of Justice,
"The Municipal Corporations Act, 1882."

Election for [*state the place and office for which election held*], holden on the day of A.D.
The petition of *A.* of [*or* of *A.* of , and *B.* of *as the case may be*] whose names are subscribed.

(1) Your petitioner *A.* is a person who voted [*or* had a right to vote, *as the case may be,*] at the above election [*or* was a candidate at the above election]; and your petitioner *B.* [*here state in like manner the right of each petitioner*].

(2) And your petitioners state that the election was holden on the day of A.D. , when *A.B.*, *C.D.*, and *E.F.* were candidates, and that *A.B.* and *C.D.* have been in the usual manner declared to be duly elected.

(3) And your petitioners say that [*here state the facts and grounds on which the petitioners rely*].

Wherefore your petitioners pray that it may be determined that the said *A.B.* was not duly elected, and that the election was void [*or* that the said *E.F.* was duly elected, and ought to have been returned, *or as the case may be*].

(Signed)
A.
B.

VI. Evidence need not be stated in the petition, but the High Court or a judge thereof may order such particulars as may be necessary to prevent surprise and unnecessary expense, and to insure a fair and effectual trial in the same way as in ordinary proceedings in the said High Court, and upon such terms as to costs and otherwise as may be ordered.

An order for particulars of the corrupt practices alleged in a municipal election petition was made at chambers in the following form:—That the petitioners do within a week deliver to the respondents particulars of all the persons alleged to have been bribed or treated, by whom, and when and where; and of all the persons alleged to have been retained or employed as canvassers and by whom, and when and where; and of all persons to whom money was paid or agreed to be paid, on account of the conveyance of voters to the poll, and by whom, and when and where such moneys were paid or agreed to be paid. On appeal to the court, the order was varied by inserting the words "as far as is known" at the end of each item of the particulars: *Maude* v. *Lowley*, 38 J.P. 280.

Where a judge in chambers ordered a petitioner to furnish particulars of his charges against the respondent ten clear days before the hearing of the petition, the Divisional Court refused to interfere with the order: *Barrow-in-Furness Election Petition*, Times Report, vol. ii., p. 356. The ordinary time for delivery of particulars is seven days before the trial: *Lenham* v. *Barber*, 48 J. P. 23.

VII. When a petitioner claims the office for an unsuccessful candidate, alleging that he had a majority of lawful votes, the party complaining of or defending the election shall, six days before the day appointed for trial deliver to the Master and also at the address if any, given by the petitioners and respondent, as the case may be, a list of the votes intended to be objected to, and the heads of objec-

Rule 7.

tion to each such vote, and the Master shall allow inspection and office copies of such lists to all parties concerned; and no evidence shall be given against the validity of any vote, nor upon any head of objection not specified in the list, except by leave of the High Court or a judge thereof, upon such terms as to amendment of the list, postponement of the inquiry, and payment of costs, as may be ordered.

The trial of a municipal election petition was appointed for the 20th January. A list of objections was tendered at the Rule Office of the Common Pleas on the 13th January, and refused on the ground that it was too late, and it was taken away by the person tendering it. On the 14th a list of objections was left at the Rule Office, and one was also delivered to the respondent. It was held that the list was not delivered in due time according to the rule, and that the court had no jurisdiction to order delivery *nunc pro tunc* under the last clause of the rule: *Nield* v. *Batty*, 38 J. P. 264.

VIII. When the respondent in a petition under the Act complaining of an undue election, and claiming the office for some person, intends to give evidence to prove that the election of such person was undue, pursuant to the 93rd section of the Act, sub-section (10), such respondent shall, six days before the day appointed for trial, deliver to the Master, and also at the address, if any, given by the petitioner, a list of the objections to the election upon which he intends to rely, and the Master shall allow inspection and office copies of such list to all parties concerned; and no evidence shall be given by a respondent of any objection to the election not specified in the list, except by leave of the High Court or a judge thereof, upon such terms as to amendment of the list, postponement of the inquiry, and payment of costs as may be ordered.

IX. With the petition the petitioner or petitioners shall leave at the office of the Master a writing, signed by him or them or on his or their behalf, giving the name of some person entitled to practise as a solicitor in the High Court of Justice, whom he or they authorise to act as his or their agent, or stating that he or they act for himself or themselves, as the case may be, and in either case giving an address, within three miles from the General Post Office, at which notices addressed to him or them may be left; and if no such writing be left or address given, then notice of objection to the recognizances, and all other notices and proceedings may be given by sticking up the same at the Master's office.

X. Any person elected to any municipal office may at any time after he is elected send to or leave at the office of the Master a writing, signed by him or on his behalf, appointing a person entitled to practise as a solicitor in the High Court of Justice, to act as his agent in case there should be a petition against him, or stating that he intends to act for himself, and in either case giving an address within three miles from the General Post Office at which notices may be left, and in default of such writing being left in a week after service of the petition, notices and proceedings may be given and served respectively by sticking up the same at the Master's office.

XI. The Master shall keep a book or books at his office, in which he shall enter all addresses and the names of agents given under either of the preceding rules, which book shall be open to inspection by any person during office hours.

Rule 12.

XII. The Master shall, upon the presentation of the petition, forthwith send a copy of the petition to the town clerk, pursuant to section 88 of the Act, sub-section (3), and shall therewith send the name of the petitioner's agent, if any, and the address, if any, given as prescribed, and also the name of the respondent's agent, and the address, if any, given as prescribed, and the town clerk shall forthwith publish those particulars along with the petition.

The cost of publication of this and any other matter required to be published by the town clerk shall be paid by the petitioner or person moving in the matter, and shall form part of the general cost of the petition.

XIII. The time for giving notice of the presentation of a petition and of the nature of the proposed security shall be five days, exclusive of the day of presentation.

XIV. Where the respondent has named an agent or given an address, the service of a municipal election petition may be by delivery of it to the agent, or by posting it in a registered letter to the address given at such time that, in the ordinary course of post, it would be delivered within the prescribed time.

In other cases the service must be personal on the respondent, unless a judge of the High Court, on an application made to him not later than five days after the petition is presented on affidavit, showing what has been done, shall be satisfied that all reasonable effort has been made to effect personal service and cause the matter to come to the knowledge of the respondent, in which case the judge may order that what has been done shall be considered sufficient service, subject to such conditions as he may think reasonable. An agent employed for the petitioner or respondent shall forthwith leave written notice at the office of the Master of his appointment to act as such agent, and service of notices and proceedings upon such agent shall be sufficient for all purposes.

XV. In case of evasion of service the sticking up a notice in the office of the Master of the petition having been presented, stating the petitioner, the prayer, and the nature of the proposed security, shall be deemed equivalent to personal service if so ordered by a judge.

XVI. The deposit of money by way of security for payment of costs, charges, and expenses payable by the petitioner, shall be made by payment into the Bank of England to an account to be opened there by the description of "The Municipal Corporations Act, 1882, Security Fund," which shall be vested in and drawn upon from time to time by the Lord Chief Justice of England for the time being, for the purposes for which security is required by the said Act, and a bank receipt or certificate for the same shall be forthwith left at the Master's office.

XVII. The Master shall file such receipt or certificate, and keep a book open to inspection of all parties concerned, in which shall be entered from time to time the amount and the petition to which it is applicable.

XVIII. All claims at law or in equity to money so deposited or to be deposited in the Bank of England shall be disposed of by the High Court of Justice or a judge thereof.

XIX. Money so deposited shall, if and when the same is no longer needed for securing payment of such costs, charges, and expenses, be

returned or otherwise disposed of as justice may require, by rule of the High Court, or order of a judge thereof. Rule 19.

XX. Such rule or order may be made after such notice of intention apply, and proof that all just claims have been satisfied or otherwise sufficiently provided for, as the Court or judge may require.

XXI. The rule or order may direct payment either to the party in whose name the same is deposited, or to any person entitled to receive the same.

XXII. Upon such rule or order being made, the amount may be drawn for by the Lord Chief Justice of England for the time being.

XXIII. The draft of the Lord Chief Justice of England for the time being shall in all cases be a sufficient warrant to the Bank of England for all payments made thereunder.

XXIV. The recognizance as security for costs may be acknowledged before a judge of the High Court or the Master in town, or a justice of the peace in the country.

There may be one recognizance acknowledged by all the sureties, or separate recognizances by one or more, as may be convenient.

XXV. The recognizance shall contain the name and usual place of abode of each surety, with such sufficient description as shall enable him to be found or ascertained, and may be as follows:—

Be it remembered that on the day of , in the year of our Lord 18 , before me [*name and description*] came *A.B.*, of [*name and description as above prescribed*] and acknowledged himself [*or* severally acknowledged themselves] to owe to our Sovereign Lady the Queen the sum of five hundred pounds [*or* the following sums], (that is to say) the said *C.D.* the sum of £ , the said *E.F.* the sum of £ , the said *G.H.* the sum of £ , and the said *J.K.* the sum of £ , to be levied on his [*or* their respective] goods and chattels, lands and tenements, to the use of our said Sovereign Lady the Queen, her heirs and successors.

The condition of this recognizance is that if [*here insert the names of all the petitioners, and if more than one, add* or any of them] shall well and truly pay all costs, charges, and expenses in respect of the election petition signed by him [*or* them] relating to the [*here insert the name of the borough*] which shall become payable by the petitioner [*or* petitioners, or any of them] under the Municipal Corporations Act, 1882, to any person or persons, then this recognizance to be void, otherwise to stand in full force.

Signed,

[*Signature of Sureties.*]

Taken and acknowledged by the above-named [*name of sureties*] on the at , before me,

C.D.
A Justice of the Peace [*or, as the case may be*].

XXVI. The recognizance or recognizances shall be left at the Master's office, by or on behalf of the petitioner, in like manner as before prescribed for the leaving of a petition forthwith after being acknowledged.

The security may (unless the High Court or a judge thereof shall otherwise order on summons) be given to any amount not less than 300*l.*; but the High Court or a judge thereof may, on summons taken

Rule 26.

out within five days from the service of the notice of the nature and amount of the security, order that the same shall be increased within a time to be fixed in the order by further security to be given in the manner directed by the Act, for a further amount, not exceeding with the amount for which security shall have been already given, 500*l*. And in default of compliance with such order, no further proceedings shall be had on the petition.

XXVII. The time for giving notice of any objection to a recognizance under the 89th section of the Act, sub-section (4), shall be within five days from the date of service of the notice of the petition and of the nature of the security, exclusive of the day of service, or in case of further security within five days after service of notice of the nature thereof, exclusive of the day of such service.

XXVIII. An objection to the recognizance must state the ground or grounds thereof, as that the sureties, or any and which of them, are sufficient, or that a surety is dead, or that he cannot be found, or that a person named in the recognizance has not duly acknowledged the same.

XXIX. An objection made to the security shall be heard and decided by the Master, subject to appeal within five days to a judge, upon summons taken out by either party to declare the security sufficient or insufficient.

XXX. Such hearing and decision may be either upon affidavit or personal examination of witnesses, or both, as the Master or judge may think fit.

XXXI. If an objection be allowed and the security be declared insufficient, the Master or judge shall in his order state what amount he deems requisite to make the security sufficient, and the further prescribed time to remove the objection by deposit shall be within five days from the date of the order, not including the day of the date, and such deposit shall be made in the manner already prescribed.

XXXII. The costs of hearing and deciding the objections made to the security given shall be paid as ordered by the Master or judge, and in default of such order shall form part of the general costs of the petition.

XXXIII. The costs of hearing and deciding an objection upon the ground of insufficiency of a surety or sureties, shall be paid by the petitioner, and a clause to that effect shall be inserted in the order declaring its sufficiency or insufficiency, unless at the time of leaving the recognizance with the Master there be also left with the Master an affidavit of the sufficiency of the surety or sureties sworn by each surety before a justice of the peace, which affidavit any justice of the peace is hereby authorised to take, or before some person authorised to take affidavits in the High Court of Justice, that he is seised or possessed of real or personal estate, or both, above what will satisfy his debts, of the clear value of the sum for which he is bound by his recognizance, which affidavit may be as follows :—

In the High Court of Justice.

Municipal Corporations Act, 1882.

I, *A.B.*, of [*as in recognizance*] make oath and say that I am seised or possessed of real [*or* personal] estate above what will satisfy my debts, of the clear value of £ .

Sworn, *&c.*

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XXXIV. The order of the Master for payment of costs shall have the same force as an order made by a judge, and may be enforced in like manner as a judge's order in an ordinary proceeding in the High Court of Justice.

XXXV. A copy of every order (other than an order giving further time for delivering particulars, or for costs only), or, if the Master shall so direct, the order itself, or a duplicate thereof, also a copy of every particular delivered, shall be forthwith filed with the Master, and the same shall be produced at the trial by the Registrar, stamped with the official seal. Such order shall be filed by the party obtaining the same, and such particular by the party delivering the same.

XXXVI. The petitioner or his agent shall, immediately after notice of the presentation of a petition and of the nature of the proposed security shall have been served, file with the Master an affidavit of the time and manner of service thereof.

XXXVII. The days mentioned in Rules VII. and VIII., and in any rule of court or judge's order, whereby particulars are ordered to be delivered, or any act is directed to be done, so many days before the day appointed for trial, shall be reckoned exclusively of the day of delivery, or of doing the act ordered and the day appointed for trial, and exclusively also of Sunday, Christmas Day, Good Friday, and any day set apart for a public fast or public thanksgiving.

XXXVIII. When the last day for presenting petitions, or filing lists of votes or objections, under Rules VII. and VIII., or recognizances, or any other matter required to be filed within a given time, shall happen to fall on a holiday, the petition or other matter shall be deemed duly filed if put into the letter-box at the Master's office at any time during such day; but an affidavit, stating with reasonable precision the time when such delivery was made, shall be filed on the first day after the expiration of the holidays.

XXXIX. The Master shall make out the municipal election list. In it he shall insert the names of the agents of the petitioners and respondents, and the addresses to which notices may be sent, if any. The list may be inspected at the Master's office at any time during office hours, and shall be put up for that purpose upon a notice board appropriated to proceedings under the said Act, and headed "Municipal Election List."

XL. The time of the trial of each municipal election petition shall be fixed by the election judges on the rota or any one of them, who shall signify the same to the Master, and notice thereof shall be given in writing by the Master by sticking notice up in his office, sending one copy by post to the address given by the petitioner, another to the address given by the respondent, if any, and a copy by the post to the town clerk of the borough to which the petition relates, fifteen days before the day appointed for the trial.

The town clerk shall forthwith publish the same in the borough.

XLI. The sticking up of the notice of trial at the office of the Master shall be deemed and taken to be notice in the prescribed manner within the meaning of the Act, and such notice shall not be vitiated by any miscarriage of or relating to the copy or copies thereof to be sent as already directed.

Rule 42. XLII. The notice of trial may be in the following form:—

Municipal Corporations Act, 1882.

Election petition of

Borough of

Take notice that the above petition [*or* petitions] will be tried at on the day of and on such other subsequent days as may be needful.

Dated the

Signed, by order,
A.B.,
The Master appointed under the above Act.

XLIII. A judge may from time to time, by order made upon the application of a party to the petition, or by notice in such form as the judge may direct to be sent to the town clerk, postpone the beginning of the trial to such day as he may name, and such notice when received shall be forthwith made public by the town clerk.

XLIV. In the event of the barrister to whom the trial of the petition is assigned not having arrived at the time appointed for the trial, or to which the trial is postponed, the commencement of the trial shall *ipso facto* stand adjourned to the ensuing day, and so from day to day.

XLV. No formal adjournment of the court for the trial of a municipal election petition shall be necessary, but the trial is to be deemed adjourned, and may be continued from day to day until the inquiry is concluded.

XLVI. After receiving notice of the petitioner's intention to apply for leave to withdraw, or of the respondent's intention not to oppose, or of the abatement of the petition by death, or of the happening of any of the events mentioned in the 97th section of the Act, if such notice be received after notice of trial shall have been given, and before the trial has commenced, the Master shall forthwith countermand the notice of trial. The countermand shall be given in the same manner, as near as may be, as the notice of trial.

XLVII. If all respondents shall give notice of their intention not to oppose the petition, and no other person shall be admitted as a respondent, the High Court of Justice, or a judge, may either declare the election void or direct the trial to proceed. Notice of such order shall be forthwith given by the Master to the town clerk, and if the election be declared void the office shall be deemed to be vacant from the first day (not being a *dies non*) after the date of such order.

The court or judge may also make such order as to costs as may be just.

XLVIII. The application to state a special case may be made by motion in the High Court of Justice, or by a summons before a judge thereof.

XLIX. The title of the court held for the trial of a municipal election petition may be as follows:—

"Court for the trial of a municipal election petition for the borough of [*or* *as may be*] between petitioner and respondent,"

and it shall be sufficient so to entitle all proceedings in that court.

Rule 50.

L. An officer shall be appointed for each court for the trial of a municipal election petition by the election judges, at the time that they assign the petition to the barrister; such officer shall attend at the trial in like manner as the clerks of assize and of arraigns attend at the assizes.

Such officer may be called the registrar of that court. He, by himself, or, in case of need, his sufficient deputy, shall perform all the functions incident to the officer of a court of record, and also such duties as may be prescribed to him.

LI. The Commissioner may appoint a proper person to act as crier and officer of the court.

LII. The shorthand writer to attend at the trial of a petition shall be the shorthand writer to the House of Commons for the time being or his deputy, and the Master shall send a copy of the notice of trial to the said shorthand writer to the House of Commons.

LIII. The amount to be paid to any witness whose expenses shall be allowed by the Commissioner trying the petition shall be ascertained and certified by the registrar; or in the event of his becoming incapacitated from giving such certificate, by the Commissioner.

LIV. The order of the court to compel the attendance of a person as a witness may be in the following form:—

> Court for the trial of a municipal election petition for [*complete the title of the court*] the day of
>
> To *A.B.* [*describe the person*]. You are hereby required to attend before the court above at [*place*] on day of at the hour of [*or* forthwith, *as the case may be*], to be examined as a witness in the matter of the said petition, and to attend the said court until your examination shall have been completed.
>
> As witness my hand, *A.B.*,
>
> The Commissioner to whom the trial of the said petition is assigned.

LV. In the event of its being necessary to commit any person for contempt, the warrant may be as follows:—

> At a court holden on at for the trial of a municipal election petition for the borough of before *A.B.*, one of the barristers appointed for the trial of municipal election petitions, pursuant to "The Municipal Corporations Act, 1882."
>
> Whereas *C.D.* has this day been guilty, and is by the said court adjudged to be guilty, of a contempt thereof. The said court does therefore sentence the said *C.D.* for his said contempt to be imprisoned in the gaol for calendar months [*or as may be*], and to pay to our Lady the Queen a fine of £ , and to be further imprisoned in the said gaol until the said fine be paid, and the court further orders that the sheriff of the borough [*if any, or as the case may be*], and all constables and officers of the peace of any county, borough, or place where the said *C.D.* may be found, shall take the said *C.D.* into custody and convey him to the said gaol, and there deliver him into the custody of the goaler thereof, to undergo his said sentence; and the court further orders the said gaoler to receive the said *C.D.* into his custody, and that he shall be detained in the said gaol in pursuance of the said sentence.
>
> Signed the day of *A.B.*
>
> *A.B.*

LVI. Such warrant may be made out and directed to the sheriff or other person having the execution of process of the High Court,

Rule 56.

as the case may be, and to all constables and officers of the peace of the county, borough, or place where the person adjudged guilty of contempt may be found, and such warrant shall be sufficient without further particularity, and shall and may be executed by the person to whom it is directed or any or either of them.

LVII. All interlocutory questions and matters, except as to the sufficiency of the security, shall be heard and disposed of before a judge, who shall have the same control over the proceedings under the Municipal Corporations Act, 1882, as a judge in the ordinary proceedings of the High Court, and such questions and matters shall be heard and disposed of by any judge of the High Court.

LVIII. Notice of an application for leave to withdraw a petition shall be in writing, and signed by the petitioners or their agent.

It shall state the ground on which the application is intended to be supported.

The following form shall be sufficient :—

Municipal Corporations Act, 1882.

Borough of . Petition of [*state petitioners*] presented day of .

The petitioner proposes to apply to withdraw his petition upon the following ground [*here state the ground*], and prays that a day may be appointed for hearing his application.

Dated this day of .

(Signed)

LIX. The notice of application for leave to withdraw shall be left at the Master's office.

LX. A copy of such notice of the intention of the petitioner to apply for leave to withdraw his petition shall be given by the petitioner to the respondent, and to the town clerk, who shall cause the same to be published in the borough to which it relates.

The following may be the form of such notice :—

Municipal Corporations Act, 1882.

In the election petition for in which is petitioner and respondent.

Notice is hereby given that the above petitioner has on the day of lodged at the Master's office notice of an application to withdraw the petition, of which notice the following is a copy [*set it out*].

And take notice, that by the rule made by the judges, any person who might have been a petitioner in respect of the said election may, within five days after publication by the town clerk of this notice, give notice in writing of his intention on the hearing to apply for leave to be substituted as a petitioner.

(Signed)

LXI. Any person who might have been a petitioner in respect of the election to which the petition relates, may, within five days after such notice is published by the returning officer, give notice in writing signed by him or on his behalf, to the Master of his intention to apply at the hearing to be substituted for the petitioner, but the want of such notice shall not defeat such application if in fact made at the hearing.

LXII. The time and place for hearing the application shall be fixed by a judge, and whether before the High Court, or before a judge, as he may deem advisable, but shall not be less than a week after the notice of the intention to apply has been given to the Master

Rule 62.

as hereinbefore provided, and notice of the time and place appointed for the hearing shall be given to such person or persons, if any, as shall have given notice to the Master of an intention to apply to be substituted as petitioners, and otherwise in such manner and at such time as the court or judge directs.

LXIII. Notice of abatement of a petition, by death of the petitioner or surviving petitioner, under section 96, sub-section (1), of the said Act, shall be given by the party or person interested in the same manner as a notice of an application to withdraw a petition, and the time within which application may be made to the High Court, or a judge thereof, by motion or summons at chambers, to be substituted as a petitioner, shall be one calendar month, or such further time as upon consideration of any special circumstances the High Court or a judge thereof may allow.

LXIV. If the respondent dies, any person entitled to be a petitioner under the Act in respect of the election to which the petition relates, may give notice of the fact in the borough by causing such notice to be published in at least one newspaper circulating therein, if any, and by leaving a copy of such notice signed by him or on his behalf with the town clerk, and a like copy with the Master.

LXV. The manner of the respondent's giving notice that he does not intend to oppose the petition shall be by leaving notice thereof in writing at the office of the Master signed by the respondent.

LXVI. Upon such notice being left at the Master's office, the Master shall forthwith send a copy thereof by the post to the petitioner or his agent, and to the town clerk, who shall cause the same to be published in the borough.

LXVII. The time for applying to be admitted as a respondent in either of the events mentioned in the 97th section of the Act shall be within ten days after such notice is given as hereinbefore directed, or such further time as the High Court or a judge thereof may allow.

LXVIII. Costs shall be taxed by the Master, or at his request by any Master of the superior court upon the rule of court or judge's order by which the costs are payable, and costs when taxed may be recovered in like manner as if payable under a rule of court, judgment, or order of a judge in the ordinary proceedings in the High Court of Justice, or in case there be money in the bank available for the purpose, then to the extent of such money by order of the Lord Chief Justice of England for the time being.

The office fees payable for inspection, office copies, enrolment, and other proceedings under the Act and these rules, shall be the same as those payable, if any, for like proceedings according to the present practice of the High Court of Justice.

LXIX. No proceedings under the Municipal Corporations Act, 1882, shall be defeated by any formal objection.

LXX. Any rule made or to be made in pursuance of the Act shall be published by a copy thereof being put up at the Master's office.

Dated the 17th day of April, 1883.

C. E. POLLOCK.
H. MANISTY.
HENRY C. LOPES.

The Judges for the time being on the rota for the trial of Parliamentary Election Petitions.

Preamble

THE DISUSED BURIAL GROUNDS ACT, 1884.

47 & 48 VICT. CHAP. 72.

AN Act for preventing the erection of Buildings on Disused Burial Grounds. [14th August, 1884.]

WHEREAS an Act was passed in the session of Parliament holden in the fifteenth and sixteenth years of Her Majesty, chapter eighty-five, to amend the laws concerning the burial of the dead in the metropolis, and an Act was passed in the session holden in the sixteenth and seventeenth years of Her Majesty, chapter one hundred and thirty-four, "to amend the laws concerning the burial of the dead in England, beyond the limits of the metropolis, and to amend the Act concerning the burial of the dead in the metropolis:" And whereas in pursuance of the provisions of the above-recited Acts numerous Orders in Council have been made for the discontinuance of burials in certain burial grounds within the metropolis and elsewhere: And whereas it is expedient that no buildings should be erected on any burial ground affected by any of such Orders in Council:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Disused Burial Grounds Act, 1884.

Interpretation clause.

2. In this Act "a disused burial ground" shall mean a burial ground in respect of which an Order in Council has been made for the discontinuance of burials therein in pursuance of the provisions of the said recited Acts.

It is provided by the Open Spaces Act, 1887, 50 & 51 Vict. c. 32, s. 4, *post*, that in the 47 & 48 Vict. c. 72, the expression "burial ground" shall have the same meaning as in the Metropolitan Open Spaces Act, 1881, as amended by that Act. "Burial ground," therefore, includes any ground, whether consecrated or not, which has been at any time set apart for the purposes of interment. The 50 & 51 Vict. c. 32, s. 4, *post*, also provides that in this Act the expression "disused burial ground" shall mean any burial ground which is no longer used for interments, whether or not such ground shall have been partially or wholly closed for burials under the statute or Order in Council.

Section 3.

3. After the passing of this Act it shall not be lawful to erect any buildings upon any disused burial ground, except for the purpose of enlarging a church, chapel, meeting-house, or other places of worship.

No buildings to be erected upon disused burial grounds except for enlargement, &c.

The 50 & 51 Vict. c. 32, s. 4, *post*, provides that the expression "building" in this Act shall include any temporary or moveable building.

4. Nothing in this Act shall prevent the erection of any building on a disused burial ground for which a faculty has been obtained before the passing of this Act.

Saving for buildings already sanctioned.

It follows that a faculty obtained since the passing of this Act will not authorise the erection of a building on a disused burial ground. As to the purposes for which faculties were formerly granted for the erection of buildings on consecrated burial grounds, see *Campbell* v. *Paddington*, 2 Rob. 558; *St. George, Hanover Square*, v. *Stewart*, 2 Str. 1126; *Harper* v. *Forbes*, 5 Jur. (N.S.) 275; *St. John's, Walbrook*, v. *The Parishioners*, 16 Jur. 645; *Reg.* v. *Twiss*, L. R. 4 Q. B. 407; 38 L. J. Q. B. 228; 20 L. T. (N.S.) 522; 17 W. R. 765.

5. Nothing in this Act contained shall apply to any burial ground which has been sold or disposed of under the authority of any Act of Parliament.

Saving of burial grounds sold by Act of Parliament.

By the St. Saviour's, Southwark (Church Rate Abolition) Act, 1883, after reciting that certain land was then vested in trustees upon trust to apply the income for the purposes therein mentioned, the land was vested in the trustees appointed by the Act upon trust to apply the income for purposes corresponding with those of the original trust; and the trustees were empowered to sell the land or let it on lease. The land had formerly been a burial ground, and it had been closed by Order in Council. It was held that the local Act did not constitute a sale or disposition under the authority of an Act of Parliament within the meaning of the above section: *St. Saviour's, Southwark* (*Trustees of*), and *Oyler*, 31 Ch. D. 412; 55 L. J. Ch. 269; 54 L. T. (N.S.) 9; 34 W. R. 224; 50 J. P. 325.

Preamble.

THE PUBLIC HEALTH (OFFICERS) ACT, 1884.

47 & 48 VICT. CHAP. 74.

AN Act to amend the Public Health Act, 1875, with respect to the Officers of Local Authorities.

[14th August, 1884.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited as the Public Health (Officers) Act, 1884, and shall be construed as one with the Public Health Act, 1875, in this Act called the principal Act.

Restriction on recovery of penalties.

2. Proceedings for the recovery of any penalty under the hundred and ninety-third section of the principal Act shall not be taken except with the consent in writing of the Attorney-General.

Section 193 of the Public Health Act, 1875, provides that officers or servants appointed or employed under that Act by the local authority shall not in any wise be concerned or interested in any bargain or contract made with such authority for any of the purposes of the Act ; and that if any such officer or servant is so concerned or interested, or, under colour of his office or employment, exacts or accepts any fee or reward whatsoever other than his proper salary, wages, and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under the Act, and shall forfeit and pay the sum of fifty pounds, which may be recovered by any person with full costs of suit, by action of debt. It was held that the action to recover this penalty might be brought by a common informer and that the proceedings need not be at the instance of a party aggrieved. See per BRAMWELL, L. J., in *Fletcher* v. *Hudson*, 5 Ex. D. 287 ; 49 L. J. Ex. 793 ; 43 L. T. (N.S.) 404 ; 45 J. P. 5. The provision in the text makes it necessary now to have the consent in writing of the Attorney-General.

Section 193 of the Public Health Act, 1875, has been further amended by 48 & 49 Vict. c. 53. See that Act, *post*, and the notes which contain all the cases decided with reference to the section.

Preamble.

THE CANAL BOATS ACT, 1884.

47 & 48 VICT. CHAP. 75.

AN Act to amend the Canal Boats Act, 1877.

[14th August, 1884.]

WHEREAS it is expedient to amend the Canal Boats Act, 1877, in this Act referred to as the principal Act: 40 & 41 Vict. c. 60.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Certificate of registry made void by structural alterations.

1. A certificate of registration granted under the principal Act shall cease to be in force in the event of any structural alterations having been made in the canal boat affecting the conditions upon which the certificate of registration has been obtained.

The 40 & 41 Vict. c. 60, s. 3, provides that upon the registry of a boat under that Act, the registration authority (*i.e.*, the urban, rural, or port sanitary authority) shall give to the owner thereof two certificates of registry, identifying the owner and the boat, and stating the place to which the boat is registered as belonging, and the number, age, and sex of the persons allowed to dwell in the boat, and such other particulars as may be provided by regulations made under the Act, as may seem fit to the registration authority. A person using a canal boat as a dwelling without being registered is liable to a penalty of twenty shillings for each occasion, under section 1 of the Act. The provision in the text renders it necessary again to register the boat if structural alterations have been made in it.

Penalty for contravention of regulations under Canal Boats Acts.

2. If default is made in complying with any of the regulations made or to be made by the Local Government Board and Education Department under the principal Act or this Act, and for the time being in force, the master of the boat with respect to which the default is made, and also the owner of the boat, if in default, shall for each default be liable on summary conviction to a fine not exceeding twenty shillings.

The regulations of the Local Government Board are made under 40 & 41 Vict. c. 60, s. 2. The existing regulations will be found in *Glen's Local Government Orders* at p. 436.

The regulations of the Education Department are made under section 5, *post*.

Fines under the principal Act and this Act are recoverable under the Summary Jurisdiction Acts. See 40 & 41 Vict. c. 60, s. 13.

The term "owner" includes a person who though only the hirer of a canal boat, appoints the master and other persons working such boat.

Section 3.

Enforcement of Act by registration and sanitary authority, and report to be made.

3. It shall be the duty of every registration or sanitary authority within whose district any canal, or any part of a canal is situate, to enforce within such district the provisions of the principal Act and this Act, and any regulations made thereunder by the Local Government Board; and every such authority shall, within twenty-one days after the thirty-first day of December in every year, make a report to the Local Government Board as to the execution of the principal Act and this Act, and of the regulations made thereunder as aforesaid, and as to the steps taken by such authority during the year to give effect to the provisions of the said Acts and regulations.

Inquiries and reports by Local Government Board.

4. The Local Government Board shall in every year present a report to both Houses of Parliament as to the execution of the principal Act and this Act, and the observance of the regulations made by them thereunder; and shall cause inquiries to be made from time to time by an inspector or inspectors to be appointed by them for that purpose.

Such inspectors shall for the purpose of any inquiry under this Act have, in relation to witnesses and their examination, the production of papers, and inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts, and may enter any canal boat at any time by day, and examine the same and every part thereof, and may, if need be, for the purpose of such inquiry detain the boat, but for no longer time than is necessary.

The master of the boat shall, if required by any such inspector, produce to him the certificate of registry, if any, of the boat, and permit him to examine and copy the same, and shall furnish him with such assistance and means as such inspector may require for the purpose of his entry and examination of and departure from the boat in pursuance of this section.

A refusal to comply with the requisition of such inspector under this section shall be deemed to be an obstruction of such inspector.

If such inspector is obstructed in the performance of his duty under this Act, the person obstructing him shall be liable to a fine not exceeding forty shillings.

For the powers of poor law inspectors, see 10 & 11 Vict. c. 109, s. 21. Daytime is defined by section 9, *post*.

Section 5.

5. The power to make regulations given to the Local Government Board by the principal Act and this Act shall include power to the Education Department to make regulations with respect to the form of certificates or pass books as to attendance at school to be used by children in canal boats.

Power to make regulations as to school certificates, &c.

The power of the Local Government Board to make regulations is given by section 2 of the Act of 1877.

6. The Education Department shall every year report to Parliament as to the manner in which the Elementary Education Acts, 1870 and 1873, 1876 and 1880, are enforced with respect to children in canal boats, and shall for that purpose direct Her Majesty's Inspector of Schools to communicate with the School Boards and School Attendance Committees in their district.

Annual report by Education Department.

7. A canal boat shall not be deemed to be lettered, marked, and numbered in conformity with section three of the principal Act, unless it is so lettered, marked, and numbered on both sides of the canal boat, or in some suitable position on the stern of the boat, so that the lettering, marking, and numbering may be plainly visible from both sides of the canal whereon the boat may be.

Lettering and numbering of canal boats.

Section 3 of the principal Act provides that every canal boat when registered shall be lettered, marked, and numbered in some conspicuous manner (as directed by the regulations), and such lettering, marking, and numbering shall include the word "registered" and the name of the place to which the boat is registered as belonging, and the registered number. Any boat not lettered, marked, or numbered in conformity with this section, or having the letter, mark, or number altered, defaced, or obliterated is to be deemed, for the purposes of the Act, to be an unregistered canal boat.

8. Every fine recovered under the principal Act or this Act shall be paid in the case of a prosecution by any registration or sanitary authority or person authorised by any such authority to such authority or person, and if paid to such person shall be paid by him to such authority, and shall be applied towards the expenses of executing the principal Act and this Act, any Act to the contrary notwithstanding.

Application of fines.

The expenses of executing the Acts are to be defrayed in the case of a rural authority as general expenses: 40 & 41 Vict. c. 60, s. 8.

9. The expression "by day" in the principal Act and this Act shall be deemed to include the hours between six o'clock in the morning and nine o'clock at night.

Definition of term "by day."

Section 10.

Amendment of definition of canal boat.

10. If it shall at any time appear to the Local Government Board, on the representation of any registration or sanitary authority or of any inspector appointed under this Act, that the principal Act and this Act ought to apply to any vessel or class of vessels which would be within the definition of canal boat contained in section fourteen of the principal Act, if such vessel or class of vessels were not registered under the Merchant Shipping Act, 1854, and the Acts amending the same, the Local Government Board may declare that the principal Act and this Act shall apply to such vessel or class of vessels, although the same may be registered as aforesaid, and thereupon the same shall be deemed to be a canal boat or canal boats within the meaning of the principal Act and this Act, and the definition contained in section fourteen of the principal Act shall be amended accordingly.

Section 14 of the principal Act defines a canal boat to mean any vessel, however propelled, which is used for the conveyance of goods along a canal and which is not a ship registered under the Merchant Shipping Acts. "Canal" includes any river, inland navigation, lake, or water being within the body of a county, whether it is or not within the ebb and flow of the tide.

Short title and construction of Act.

11. This Act may be cited as the Canal Boats Act, 1884, and shall be construed as one with the Canal Boats Act, 1877, which Act and this Act may be cited together as the Canal Boats Acts, 1877 and 1884.

THE REPRESENTATION OF THE PEOPLE ACT, 1884.

48 VICT. CHAP. 3.

An Act to amend the Law relating to the Representation of the People of the United Kingdom.

[6th December, 1884.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title of Act.

1. This Act may be cited as the Representation of the People Act, 1884.

Extension of the Household and Lodger Franchise. **Section 2.**

Uniform household and lodger franchise.

2. A uniform household franchise and a uniform lodger franchise at elections shall be established in all counties and boroughs throughout the United Kingdom, and every man possessed of a household qualification or a lodger qualification shall, if the qualifying premises be situate in a county in England or Scotland, be entitled to be registered as a voter, and when registered to vote at an election for such county, and if the qualifying premises be situate in a county or borough in Ireland, be entitled to be registered as a voter, and when registered to vote at an election for such county or borough.

The terms "household qualification" and "lodger qualification" are defined by section 7, *post*. The effect of the above section is to extend to counties the provisions of the 30 & 31 Vict. c. 102, as to these qualifications, which previously applied only in boroughs.

Tenure of house by office or service not to invalidate vote.

3. Where a man himself inhabits any dwelling-house by virtue of any office, service, or employment, and the dwelling-house is not inhabited by any person under whom such man serves in such office, service, or employment, he shall be deemed for the purposes of this Act and of the Representation of the People Acts to be an inhabitant occupier of such dwelling-house as a tenant.

This section creates what is popularly known as the service franchise. An industrial trainer in a workhouse was held entitled to the franchise under this section: *Adams* v. *Fox*, 16 Q. B. D. 239; 55 L. J. Q. B. 13; 34 W. R. 64; 49 J. P. 711. As also a shop assistant who had the exclusive use of a bedroom in a house belonging to his employers: *Stribling* v. *Halse*, 16 Q. B. D. 246; 55 L. J. Q. B. 15; 49 J. P. 727. Officers and non-commissioned officers in the army having quarters in barracks: *Atkinson* v. *Collard*, 16 Q. B. D. 254; 55 L. J. Q. B. 18, 24; 34 W. R. 75; 50 J. P. 23; *Gay* v. *McFill*, 15 Ct. of Sess. Cas. 90. So also a domestic servant, and a shop foreman: *Hasson* v. *Chambers*, 18 L. R. Ir. 68. In the case of soldiers a period of compulsory absence was held to take away the right to this franchise: *Spittall* v. *Brook*, 18 Q. B. D. 426; 56 L. J. Q. B. 48; 56 L. T. (N.S.) 364; 35 W. R. 520. A son occupying a room in his father's house was held not to be entitled to this franchise: *Clarke* v. *Buchanan*, 20 L. R. Ir. 201. Where a house is let out in separate tenements but the landlord lives in it, the tenants will in general be regarded as lodgers, not as occupiers entitled to the franchise under this section: *Hogan* v. *Sterrett*, 20 L. R. Ir. 344. A clerk of a hydropathic establishment was held entitled in respect of a room which he occupied in the building: *Ballingall* v. *Menzies*, 14 Ct. of Sess. Cas. 127. So also a teacher in a college conducted by a religious community: *Alexander* v. *Burke*, 22 L. R. Ir. 443. But a miner, against whom a decree of ejection had been obtained though he was still in occupation, was held not to be entitled: *Strachan* v. *Binnie*, 15 Ct. of Sess. Cas. 308. A gardener was held entitled in respect of a room he occupied over a coach-house: *Holly* v. *Burke*, 22 L. R. Ir. 463. The manager of a farm, of which his mother was tenant, who lived in the farmhouse with his mother and sisters, was held not to be entitled to this franchise in respect of the exclusive use and occupation of a bedroom in the house: *Philip* v. *Roxburgh*, 16 Ct. of

Section 3.
NOTE.

Sess. Cas. 261. Occupation, during the qualifying period, of two dwelling-houses in immediate succession, the first by service the second as a householder, is a qualification for the occupation franchise: *Torish* v. *Clarke*, 18 L. R. Ir. 285: *Nicholson* v. *Yeoman*, 24 Q. B. D. 145.

Labourers residing in cottages on the farms of their employers were permitted, but not required to live in the cottages on the terms that they were to give up possession when their employment ceased, and were either charged a reduced rent or had the rent deducted from their wages. The rates were paid by the employers, and the names of the claimants appeared in the rate book as occupiers:—Held, that the facts showed an occupation by the claimants not by virtue of service but as householders, that the above section did not apply, and the claimants possessed a burgess qualification, and that they were therefore entitled to be placed on division one of the occupiers list as both parliamentary voters and county electors: *Marsh* v. *Estcourt*, 24 Q. B. D. 147.

Prohibition of Multiplication of Votes.

Restriction on fagot votes.

4. Subject to the saving in this Act for existing voters, the following provisions shall have effect with reference to elections:

(1) A man shall not be entitled to be registered as a voter in respect of the ownership of any rentcharge except the owner of the whole of the tithe rentcharge of a rectory, vicarage, chapelry, or benefice to which an apportionment of tithe rentcharge shall have been made in respect of any portion of tithes.

See the definition of a rentcharge in section 11, *post*.
The saving above referred to is contained in section 10, *post*.

(2) Where two or more men are owners either as joint tenants or as tenants in common of an estate in any land or tenement, one of such men, but not more than one, shall, if his interest is sufficient to confer on him a qualification as a voter in respect of the ownership of such estate, be entitled (in the like cases and subject to the like conditions as if he were the sole owner) to be registered as a voter, and when registered to vote at an election.

Provided that where such owners have derived their interest by descent, succession, marriage, marriage settlement, or will, or where they occupy the land or tenement, and are *bonâ fide* engaged as partners carrying on trade or business thereon, each of such owners whose interest is sufficient to confer on him a qualification as a voter shall be entitled (in the like cases and subject to the like conditions as if he were sole owner) to be registered as a voter in respect of such ownership, and when registered to vote at an election, and the value of the interest of each such

owner where not otherwise legally defined shall be ascertained by the division of the total value of the land or tenement equally among the whole of such owners. Section 4.

Assimilation of Occupation Qualification.

Assimilation of occupation qualification.

5. Every man occupying any land or tenement in a county or borough in the United Kingdom of a clear yearly value of not less than ten pounds shall be entitled to be registered as a voter and when registered to vote at an election for such county or borough in respect of such occupation subject to the like conditions respectively as a man is, at the passing of this Act, entitled to be registered as a voter and to vote at an election for such county in respect of the county occupation franchise, and at an election for such borough in respect of the borough occupation franchise.

This section substitutes the 10*l.* occupation qualification for the old 12*l.* qualification in counties, which was created by 30 & 31 Vict. c. 102.

Supplemental Provisions.

Voter not to vote for county in respect of occupation of property in borough.

6. A man shall not by virtue of this Act be entitled to be registered as a voter, or to vote at any election for a county in respect of the occupation of any dwelling-house, lodgings, land, or tenement, situate in a borough.

Definition of household and lodger qualification and other franchises, and application of enactments relating thereto.

7.—(1) In this Act the expression "a household qualification" means, as respects England and Ireland, the qualification enacted by the third section of the Representation of the People Act, 1867, and the enactments amending or affecting the same, and the said section and enactments, so far as they are consistent with this Act, shall extend to counties in England and to counties and boroughs in Ireland.

(2) In the construction of the said enactments, as amended and applied to Ireland, the following dates shall be substituted for the dates therein mentioned, that is to say, the twentieth day of July for the fifteenth day of July, the first day of July for the twentieth day of July, and the first day of January for the fifth day of January.

(3) The expression "a lodger qualification" means the qualification enacted, as respects England, by the fourth section of the Representation of the People Act, 1867, and the enactments amending or affecting the same, and as respects Ireland, by the fourth section of the Representation of the People (Ireland) Act,

30 & 31 Vict. c. 102, s. 4.

31 & 32 Vict. c. 49, s. 4.

Section 7.

1868, and the enactments amending or affecting the same, and the said section of the English Act of 1867, and the enactments amending or affecting the same, shall, so far as they are consistent with this Act, extend to counties in England, and the said section of the Irish Act of 1868, and the enactments amending or affecting the same, shall, so far as they are consistent with this Act, extend to counties in Ireland; and sections five and six and twenty-two and twenty-three of the Parliamentary and Municipal Registration Act, 1878, so far as they relate to lodgings, shall apply to Ireland, and for the purpose of such application the reference in the said section six to the Representation of the People Act, 1867, shall be deemed to be made to the Representation of the People (Ireland) Act, 1868, and in the said section twenty-two of the Parliamentary and Municipal Registration Act, 1878, the reference to section thirteen of the Parliamentary Registration Act, 1843, shall be construed to refer to the enactments of the Registration Acts in Ireland relating to the making out, signing, publishing, and otherwise dealing with the lists of voters, and the reference to the Parliamentary Registration Acts shall be construed to refer to the Registration Acts in Ireland, and the following dates shall be substituted in Ireland for the dates in that section mentioned, that is to say, the twentieth day of July for the last day of July, and the fourteenth day of July for the twenty-fifth day of July, and the word "overseers" shall be construed to refer in a county to the clerk of the peace, and in a borough to the town clerk.

41 & 42 Vict. c. 26, ss. 5, 6, 22, 23.

31 & 32 Vict. c. 49.

6 & 7 Vict. c. 18.

(4) The expression "a household qualification" means, as respects Scotland, the qualification enacted by the third section of the Representation of the People (Scotland) Act, 1868, and the enactments amending or affecting the same, and the said section and enactments shall, so far as they are consistent with this Act, extend to counties in Scotland, and for the purpose of the said section and enactments the expression "dwelling-house" in Scotland means any house or part of a house occupied as a separate dwelling, and this definition of a dwelling-house shall be substituted for the definition contained in section fifty-nine of the Representation of the People (Scotland) Act, 1868.

31 & 32 Vict. c. 48, s. 3.

31 & 32 Vict. c. 48, s. 59.

(5) The expression "a lodger qualification" means, as respects Scotland, the qualification enacted by the fourth section of the Representation of the People (Scotland) Act, 1868, and the enactments amending or affecting the same, and the said section

and enactments, so far as they are consistent with this Act, shall extend to counties in Scotland. Section 7.

(6) The expression "county occupation franchise" means, as respects England, the franchise enacted by the sixth section of the Representation of the People Act, 1867; and, as respects Scotland, the franchise enacted by the sixth section of the Representation of the People (Scotland) Act, 1868; and, as respects Ireland, the franchise enacted by the first section of the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter sixty-nine. 30 & 31 Vict. c. 102, s. 6. 31 & 32 Vict. c. 48, s. 6. 13 & 14 Vict. c. 69, s. 1.

(7) The expression "borough occupation franchise" means, as respects England, the franchise enacted by the twenty-seventh section of the Act of the session of the second and third years of the reign of King William the Fourth, chapter forty-five; and as respects Scotland, the franchise enacted by the eleventh section of the Act of the session of the second and third years of the reign of King William the Fourth, chapter sixty-five; and as respects Ireland the franchise enacted by section five of the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter sixty-nine, and the third section of the Representation of the People (Ireland) Act, 1868. 2 & 3 Will. 4, c. 45, s. 27. 2 & 3 Will. 4, c. 65, s. 11. 13 & 14 Vict. c. 69, s. 5. 31 & 32 Vict. c. 49, s. 3.

(8) Any enactments amending or relating to the county occupation franchise or borough occupation franchise other than the sections in this Act in that behalf mentioned shall be deemed to be referred to in the definition of the county occupation franchise and the borough occupation franchise in this Act mentioned.

Definition of "Representation of the People Acts" and "Registration Acts."

8.—(1) In this Act the expression "the Representation of the People Acts" means the enactments for the time being in force in England, Scotland, and Ireland respectively relating to the representation of the people, inclusive of the Registration Acts as defined by this Act.

(2) The expression "the Registration Acts" means the enactments for the time being in force in England, Scotland, and Ireland respectively, relating to the registration of persons entitled to vote at elections for counties and boroughs, inclusive of the Rating Acts as defined by this Act.

(3) The expressions "the Representation of the People Acts" and "the Registration Acts" respectively, where used in this Act, shall be read distributively in reference to the three parts of the United Kingdom as meaning in the case of each part the enactments for the time being in force in that part.

Section 8.

(4) All enactments of the Registration Acts which relate to the registration of persons entitled to vote in boroughs in England in respect of a household or a lodger qualification, and in boroughs in Ireland in respect of a lodger qualification, shall, with the necessary variations and with the necessary alterations of precepts, notices, lists, and other forms, extend to counties as well as to boroughs.

(5) All enactments of the Registration Acts which relate to the registration in counties and boroughs in Ireland of persons entitled to vote in respect of the county occupation franchise and the borough occupation franchise respectively, shall, with the necessary variations and with the necessary alterations of precepts, notices, lists, and other forms, extend respectively to the registration in counties and boroughs in Ireland of persons entitled to vote in respect of the household qualification conferred by this Act.

(6) In Scotland all enactments of the Registration Acts which relate to the registration of persons entitled to vote in burghs, including the provisions relating to dates, shall, with the necessary variations, and with the necessary alterations of notices and other forms, extend and apply to counties as well as to burghs; and the enactments of the said Acts which relate to the registration of persons entitled to vote in counties shall, so far as inconsistent with the enactments so applied, be repealed: Provided that in counties the valuation rolls, registers, and lists shall continue to be arranged in parishes as heretofore.

Definition and application of Rating Acts.

9.—(1) In this Act the expression "the Rating Acts" means the enactments for the time being in force in England, Scotland, and Ireland respectively, relating to the placing of the names of occupiers on the rate book, or other enactments relating to rating in so far as they are auxiliary to or deal with the registration of persons entitled to vote at elections; and the expression "the Rating Acts" where used in this Act shall be read distributively in reference to the three parts of the United Kingdom as meaning in the case of each part the Acts for the time being in force in that part.

(2) In every part of the United Kingdom it shall be the duty of the overseers annually, in the months of April and May, or one of them, to inquire or ascertain with respect to every hereditament which comprises any dwelling-house or dwelling-houses within the meaning of the Representation of the People Acts, whether any man, other than the owner or other person

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rated or liable to be rated in respect of such hereditament, is entitled to be registered as a voter in respect of his being an inhabitant occupier of any such dwelling-house, and to enter in the rate book the name of every man so entitled, and the situation or description of the dwelling-house in respect of which he is entitled, and for the purposes of such entry a separate column shall be added to the rate book.

A person who is not rated in respect of the dwelling-house occupied by him may nevertheless be entitled to the franchise as an occupier under 32 & 33 Vict. c. 41, s. 19, or under section 3 of this Act; and see sub-section (8), *post*. It will be the duty of the overseers to ascertain the names of all such persons.

(3) For the purpose of the execution of such duty, the overseers may serve on the person who is the occupier or rated or liable to be rated in respect of such hereditament, or on some agent of such person concerned in the management of such hereditament, the requisition specified in the Third Schedule to this Act requiring that the form in that notice be accurately filled up and returned to the overseers within twenty-one days after such service; and if any such person or agent on whom such requisition is served fails to comply therewith, he shall be liable on summary conviction to a fine not exceeding forty shillings, and any overseer who fails to perform his duty under this section shall be deemed guilty of a breach of duty in the execution of the Registration Acts, and shall be liable to be fined accordingly a sum not exceeding forty shillings for each default.

(4) The notice under this section may be served in manner provided by the Representation of the People Acts with respect to the service on occupiers of notice of non-payment of rates, and, where a body of persons, corporate or unincorporate, is rated, shall be served on the secretary or agent of such body of persons; and where the hereditament by reason of belonging to the Crown or otherwise is not rated, shall be served on the chief local officer having the superintendence or control of such hereditament.

The notice may, therefore, be served by delivering it to the occupier of the house or left at his last or usual place of abode, or with some person on the premises: 30 & 31 Vict. c. 102, s. 28; or if no such person can be found by fixing it on a conspicuous part of the premises: 41 & 42 Vict. c. 26, s. 10. It is submitted, however, that a penalty would not be incurred by a person under the preceding sub-section if the notice never came to his knowledge.

(5) In the application of this section to Scotland the expression rate book means the valuation roll, and where a man

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entered on the valuation roll by virtue of this section inhabits a dwelling-house by virtue of any office, service, or employment, there shall not be entered in the valuation roll any rent or value against the name of such man as applicable to such dwelling-house, nor shall any such man by reason of such entry become liable to be rated in respect of such dwelling-house.

(6) The proviso in section two of the Act for the valuation of lands and heritages in Scotland passed in the session of the seventeenth and eighteenth years of the reign of Her present Majesty, chapter ninety-one, and section fifteen of the Representation of the People (Scotland) Act, 1868, shall be repealed: Provided that in any county in Scotland the commissioners of supply, or the parochial board of any parish, or any other rating authority entitled to impose assessments according to the valuation roll, may, if they think fit, levy such assessments in respect of lands and heritages separately let for a shorter period than one year or at a rent not amounting to four pounds per annum in the same manner and from the same persons as if the names of the tenants and occupiers of such lands and heritages were not inserted in the valuation roll.

31 & 32 Vict. c. 48.

(7) In Ireland where the owner of a dwelling-house is rated instead of the occupier, the occupier shall nevertheless be entitled to be registered as a voter, and to vote under the same conditions under which an occupier of a dwelling-house in England is entitled in pursuance of the Poor Rate Assessment and Collection Act, 1869, and the Acts amending the same, to be registered as a voter, and to vote where the owner is rated, and the enactments referred to in the First Schedule to this Act shall apply to Ireland accordingly, with the modifications in that schedule mentioned.

32 & 33 Vict. c. 41.

(8) Both in England and Ireland where a man inhabits any dwelling-house by virtue of any office, service, or employment, and is deemed for the purposes of this Act and of the Representation of the People Acts to be an inhabitant occupier of such dwelling-house as a tenant, and another person is rated or liable to be rated for such dwelling-house, the rating of such other person shall for the purposes of this Act and of the Representation of the People Acts be deemed to be that of the inhabitant occupier; and the several enactments of the Poor Rate Assessment and Collection Act, 1869, and other Acts amending the same referred to in the First Schedule to this Act shall for those purposes apply to such inhabitant occupier, and in the construction of those enactments the word "owner" shall be deemed

to include a person actually rated or liable to be rated as aforesaid. Section 9.

The effect of the enactments above applied may be thus shortly stated:—32 & 33 Vict. c. 41. Payment of rate by owner to be deemed payment by occupier for purposes of franchise (section 7); owner who is rated or pays poor rates is to give list of occupiers to overseers under a penalty of 2*l.* (section 9); section 28 of 30 & 31 Vict. c. 102, with respect to notices of rates in arrear, is to apply to occupiers when the owner is rated (section 10); the names of all occupiers are to be inserted in the rate when the owner is rated or pays the rates, and the rating of the owner is to be deemed a rating of the occupier; but the omission of an occupier's name is not to deprive him of any franchise (section 19); the term "owner" is to mean any person receiving or claiming the rent of the hereditaments for his own use, or receiving the same for the use of any corporation aggregate, or of any public company, or of any landlord or lessee who shall be a minor, a married woman, or insane, or for the use of any person for whom he is acting as agent (section 20); 41 & 42 Vict. c. 26, s. 14, amends 32 & 33 Vict. c. 41, s. 19, by providing that it shall not be deemed to apply exclusively to cases where an agreement has been made under section 3 of the same Act, or where an order has been made under section 4 of the same Act but shall be of general application. The Assessed Rates Act, 1879, is set out *ante*, p. 9.

(9) In any part of the United Kingdom where a man inhabits a dwelling-house in respect of which no person is rated by reason of such dwelling-house belonging to or being occupied on behalf of the Crown, or by reason of any other ground of exemption, such person shall not be disentitled to be registered as a voter, and to vote by reason only that no one is rated in respect of such dwelling-house, and that no rates are paid in respect of the same, and it shall be the duty of the persons making out the rate book or valuation roll to enter any such dwelling-house as last aforesaid in the rate book or valuation roll, together with the name of the inhabitant occupier thereof.

10. Nothing in this Act shall deprive any person (who at the date of the passing of this Act is registered in respect of any qualification to vote for any county or borough) of his right to be from time to time registered and to vote for such county or borough in respect of such qualification in like manner as if this Act had not passed. Saving.

Provided that where a man is so registered in respect of the county or borough occupation franchise by virtue of a qualification which also qualifies him for the franchise under this Act, he shall be entitled to be registered in respect of such latter franchise only.

Nothing in this Act shall confer on any man who is subject to any legal incapacity to be registered as a voter or to vote, any right to be registered as a voter or to vote.

Where A. in and previous to the year 1884, was a joint rated occupier

Section 10.
NOTE.

with B., of premises of sufficient rateable value to confer on each of them the parliamentary franchise, under 13 & 14 Vict. c. 69, s. 6, and they so continued down to the month of May, 1887, when A. moved into separate premises, which, if sufficiently long occupied, were of a character to have qualified him under 48 Vict. c. 3 :—*Held*, that under the saving clause (section 10) in the latter Act, A. might bring his new qualification in aid of his old one, and was entitled to be registered, although the existing registry described him in respect of his earlier qualification as a "rated occupier," instead of a joint rated occupier: *McCrabb* v. *Chambers*, 22 L. R. Ir. 436 (C.A.).

Construction of Act.

11. This Act, so far as may be consistently with the tenor thereof, shall be construed as one with the Representation of the People Acts as defined by this Act; and the expressions "election," "county," and "borough," and other expressions in this Act and in the enactments applied by this Act, shall have the same meaning as in the said Acts.

Provided that in this Act and the said enactments—

The expression "overseers" includes assessors, guardians, clerks of unions, or other persons by whatever name known, who perform duties in relation to rating or to the registration of voters similar to those performed in relation to such matters by overseers in England.

The expression "rentcharge" includes a fee farm rent, a feu duty in Scotland, a rent seck, a chief rent, a rent of assize, and any rent or annuity granted out of land.

The expression "land or tenement" includes any part of a house separately occupied for the purpose of any trade, business, or profession, and that expression, and also the expression "hereditament," when used in this Act, in Scotland includes "lands and heritages."

The expressions "joint tenants" and "tenants in common" shall include "pro indiviso proprietors."

The expression "clear yearly value" as applied to any land or tenement means in Scotland the annual value as appearing in the valuation roll, and in Ireland the net annual value at which the occupier of such land or tenement was rated under the last rate for the time being, under the Act of the session of the first and second years of the reign of Her present Majesty, chapter fifty-six, or any Acts amending the same.

Repeal of certain superseded sections.

12. Whereas the franchises conferred by this Act are in substitution for the franchises conferred by the enactments mentioned in the first and second parts of the Second Schedule hereto, be it enacted that the Acts mentioned in the first part of the said Second Schedule shall be repealed to the extent in the third column of that part of the said schedule mentioned except in so far as relates to the rights of persons saved by this

Act; and the Acts mentioned in the second part of the said Second Schedule shall be repealed to the extent in the third column of that part of the said schedule mentioned except in so far as relates to the rights of persons saved by this Act and except in so far as the enactments so repealed contain conditions made applicable by this Act to any franchise enacted by this Act. Section 12.

13. This Act shall commence and come into operation on the first day of January one thousand eight hundred and eighty-five: Provided that the register of voters in any county or borough in Scotland made in the last-mentioned year shall not come into force until the first day of January one thousand eight hundred and eighty-six, and until that day the previous register of voters shall continue in force. Commencement of Act.

FIRST SCHEDULE.

ENACTMENTS APPLIED TO IRELAND. Section 9.

Session and Chapter.	Title.	Enactments applied.
32 & 33 Vict. c. 41 -	The Poor Rate Assessment and Collection Act, 1869.	Section seven; section eight; section nine; section ten, and the enactment of the Representation of the People Act, 1867, therein referred to; section nineteen; section twenty, so far as regards the definition of the word "owner."
41 & 42 Vict. c. 26 -	The Parliamentary and Municipal Registration Act, 1878.	Section fourteen.
42 & 43 Vict. c. 10 -	The Assessed Rates Act, 1879.	The whole Act.

MODIFICATIONS.

Any penalty recoverable on summary conviction may be recovered in accordance with the law relating to summary convictions in Ireland.

In the above-mentioned enactment of the Representation of the People Act, 1867, the thirty-first day of December shall be substituted for the fifth day of January, the first day of May for the first day of June, and the twentieth day of May for the twentieth day of June.

Schedule 2.

SECOND SCHEDULE.

Section 12.

PART I.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
2 & 3 Will. 4, c. 45	An Act to amend the Representation of the People in England and Wales.	Section twenty, the words "or who shall occupy as tenant any lands or tenements for which he shall be *bonâ fide* liable to a yearly rent of not less than fifty pounds."
2 & 3 Will. 4, c. 65	An Act to amend the Representation of the People in Scotland.	Section nine, the words "or where such tenant shall, for the aforesaid period of twelve months, have been in the actual personal occupancy of any such subject, where the yearly rent is not less than fifty pounds, or where the tenant, whatever the rent may be, has truly paid for his interest in such subject a price, grassum, or consideration of not less than three hundred pounds."

Schedule 2.

PART II.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
2 & 3 Will. 4, c. 45	An Act to amend the Representation of the People in England and Wales.	Section twenty-seven.
2 & 3 Will. 4, c. 65	An Act to amend the Representation of the People in Scotland.	Section eleven, from the beginning of the section to the words "sixth day of April then next preceding" inclusive.
13 & 14 Vict. c. 69	An Act to amend the Laws which regulate the Qualification and Registration of Parliamentary Voters in Ireland, and to alter the Law for rating Immediate Lessors of Premises to the Poor Rate in certain Boroughs.	Sections one and five.
30 & 31 Vict. c. 102	The Representation of the People Act, 1867.	Section six.
31 & 32 Vict. c. 48	The Representation of the People (Scotland) Act, 1868.	Section six.
31 & 32 Vict. c. 49	The Representation of the People (Ireland) Act, 1868.	Section three.

THIRD SCHEDULE.

FORM OF REQUISITION BY OVERSEERS REQUIRING NAMES OF INHABITANT OCCUPIERS. Section 9.

To *E.F.*

You are hereby required to fill up accurately the under-written form.

If this form is not returned to [us], accurately filled up, within twenty-one days after the service hereof, you will be liable, under the Representation of the People Act, 1884, to a penalty not exceeding forty shillings.

Dated this day of 18 .

A.B.

C.D.

Overseers [*or* assistant overseer] for the parish of

Schedule 3.

Form of Return.

1.	2.	3.
Property in respect of which the Person making the Return is rated [*or* liable to be rated, *or* occupier].	Situation or Description of every Dwelling-house, as defined by the Representation of the People Acts, forming part of the Property in First Column.	Surname and other Name of every Man who was on the fifteenth [*or in English Counties or in Scotch Counties or Boroughs* last, *or in Irish Counties or Boroughs* twentieth] day of July last, and has been up to the date of the Return an Inhabitant Occupier of any Dwelling-house in the Second Column.

I declare that the above is a true and complete return.

(Signed) *E.F.*

Dated the day of 18 .

THE MUNICIPAL VOTERS RELIEF ACT, 1885.

48 VICT. CHAP. 9.

AN Act to relieve Municipal Voters from being disqualified in consequence of letting their Dwelling-houses for short periods. [28th April, 1885.]

41 & 42 Vict. c. 3. WHEREAS by the House Occupiers Disqualification Removal Act, 1878, provision was made that a man should be entitled to be registered as an inhabitant occupier of a dwelling-house

30 & 31 Vict. c. 102. under the third section of the Representation of the People Act, 1867, notwithstanding that during a part of the qualifying period not exceeding four months in the whole, he should by letting, or otherwise, have permitted the qualifying premises to be occupied as a furnished house by some other person:

41 & 42 Vict. c. 5. And whereas similar provision was made as regards Scotland by the House Occupiers Disqualification Removal (Scotland) Act, 1878:

And whereas it is expedient to extend the said Acts to voters at municipal elections:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Section 1.

1. This Act may be cited as the Municipal Voters Relief Act, 1885. Short title.

Letting as furnished house for certain period not to disqualify.

2. From and after the passing of this Act a man shall not be disqualified from being enrolled or voting as a burgess at any municipal election in a borough, in respect of the occupation of any house, by reason only that during a part of the qualifying period, not exceeding four months in the whole, he has, by letting or otherwise, permitted such house to be occupied as a furnished dwelling-house by some other person, and during such occupation by another person has not resided in or within seven miles of the borough.

This provision applies now to county electors as well as to burgesses of municipal boroughs, and must be attended to by the overseers in making out lists of county electors and burgesses. It is in form an amendment of the Municipal Corporations Act, 1882, s. 9.

Definitions.

3. In this Act—

The expression "burgess" has, in England, the same meaning as in the Municipal Corporations Act, 1882, and in Scotland and Ireland means a person entitled to vote at a municipal election in Scotland and Ireland respectively. 45 & 46 Vict. c. 50.

The expression "municipal election" has, in England, the same meaning as in the Municipal Corporations Act, 1882, and in Scotland and Ireland, has the same meaning as that expression is defined to have with reference to Scotland and Ireland respectively by the Ballot Act, 1872. 35 & 36 Vict c. 33.

Reduction of qualifying period of occupation in Dublin.

4. Whereas in the municipal borough of Dublin the qualifying period of occupation is a period of two years and eight months, ending the last day of August, and it is expedient that such qualifying period should be reduced: Be it enacted that from and after the passing of this Act the qualifying period of occupation in the said municipal borough shall be a period of twelve months preceding the first day of September, instead of such period of two years and eight months.

Preamble.

THE REGISTRATION ACT, 1885.

48 VICT. CHAP. 15.

An Act to assimilate the Law affecting the Registration of Occupation Voters in Counties and Boroughs, and for other purposes. [21st May, 1885.]

WHEREAS it is expedient that the assimilation of the county and borough occupation franchises should be followed by an assimilation of the registration law applicable to those franchises in counties and boroughs:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Extension to county voters of borough system of registration.

(1) Occupation voters.

1.—(1) Subject to the modifications in this Act mentioned, the registration of occupation voters in parliamentary counties shall be conducted in the like manner as the registration of occupation voters in parliamentary boroughs, and the Parliamentary Registration Acts shall apply to parliamentary counties in like manner as they apply to parliamentary boroughs.

For the definition of the term "Parliamentary Registration Acts," see section 19, *post*.

(2) Ownership voters. 41 & 42 Vict. c. 26.

(2) Subject to the modifications in this Act mentioned, the following sections of the Parliamentary and Municipal Registration Act, 1878, that is to say,—

Section nine (relating to the publication of notices at post offices, telegraph offices, and public, municipal, and parochial offices);

Section twenty-seven (relating to objections to the lists of voters);

Section twenty-eight (relating to the duties and powers of revising barristers); and

Section twenty-nine (relating to the power to fine overseers for neglect of duty),

shall apply to the registration of ownership voters in parliamentary counties in like manner as to the registration of

occupation voters; but save as aforesaid, nothing in this section shall be deemed to extend to ownership voters any of the provisions of the Parliamentary Registration Acts which relate to boroughs. Section 1.

The 41 & 42 Vict. c. 26, s. 9, provides that notices and lists shall be published not only in the manner provided by the Registration Acts, but also by being affixed and kept in some public and conspicuous position in or near every post office and telegraph office occupied by, or on behalf of Her Majesty's Postmaster General; and in or near every public, or municipal, or parochial office within the parish to which the list relates. (This section is not to apply to any parish not situate in a municipal borough which is not situate in an urban district. See sub-section (3) (*c*), *infra*, and 51 Vict. c. 10, s. 4, sub-sect. (2) (*a*), *post*). Section 27 deals with the revision of the lists of voters, and the withdrawal, revision, and costs of objections. (See the modification of this section in section 3 (*f*), *infra.*) Section 28 deals with the powers and duties of a revising barrister, but see section (4), sub-sect. (9), *infra*. Section 29 provides that the 6 & 7 Vict. c. 18, s. 51, relating to the power of the revising barrister to fine overseers for neglect of duty, shall extend to every wilful refusal, neglect, or breach of duty, on the part of overseers in the execution of the Act.

(3) In the construction of the above-mentioned Acts and sections for the purposes of their application by this section, there shall be made the variations following, and such other variations as are necessary for carrying into effect the said application; that is to say,— (3) Modifications.

(*a*) "Parliamentary county" shall be substituted for "parliamentary borough."

(*b*) "Clerk of the peace" shall, subject as in this Act mentioned, be substituted for "town clerk," save where the context requires a reference to the town clerk of a municipal borough.

(*c*) Section nine of the Parliamentary and Municipal Registration Act, 1878, shall apply only to the publication of notices within parishes situate wholly or partly in an urban sanitary district and not in a parliamentary borough. 41 & 42 Vict. c. 26.

(*d*) Section sixteen of the Parliamentary and Municipal Registration Act, 1878, shall not apply to parliamentary counties, except so far as relates to the registration of persons entitled to vote in respect of a lodger qualification.

(*e*) Section twenty-one of the Parliamentary and Municipal Registration Act, 1878, shall not apply to parliamentary counties.

Section 1.

(*f*) Any notice required to be given to the town clerk by section twenty-seven of the Parliamentary and Municipal Registration Act, 1878, relating to the withdrawal and revival of objections, shall be given in a parliamentary county to the overseers, and not to the clerk of the peace.

The modification of 41 & 42 Vict. c. 26, s. 9, made as above, must now be read with 51 Vict. c. 10, s. 4, (2) (*a*), *post*. See the note to the preceding sub-section.

The 41 & 42 Vict. c. 26, s. 16, provides for the registration of freemen, or under any right other than a right conferred by 2 & 3 Will. 4, c. 45, or 30 & 31 Vict. c. 102, s. 3.

The 41 & 42 Vict. c. 26, s. 21, provides that if and so far as the local authority so direct, lists and registers may be arranged according to streets. This section is not to apply to a parish not situate in a parliamentary or a municipal borough: 51 Vict. c. 10, s. 4. As to the metropolis, see the same Act, section 5.

Adaptation of Acts as regards lists of county voters.

2.—(1) For the purpose of the enactments relating to the registration of voters the lists of occupation voters in a parliamentary county shall be deemed to be part of the list of voters in that county, and any person whose name appears in the list of voters may object to the name of any other person therein, in like manner as if he were on the register of voters for the county.

(2) In the list of voters and register of voters in a parliamentary county there shall be separate lists of—

(*a*) Ownership voters;

(*b*) Occupation voters other than lodgers; and

(*c*) Lodgers.

Alteration of dates.

3.—(1) In both parliamentary counties and parliamentary boroughs notices of claims and objections shall be given on or before the twentieth day of August, and the twentieth day shall be substituted in the Parliamentary Registration Acts for the twenty-fifth day of August wherever the same occurs.

(2) The overseers shall, in both parliamentary counties and parliamentary boroughs, on or before the twenty-fifth day of August, publish the lists of claims and objections, and deliver to the clerk of the peace and town clerk respectively the papers mentioned in sections nine and nineteen of the Parliamentary Registration Act, 1843; and the twenty-fifth day of August shall be substituted in the Parliamentary Registration Acts for the twenty-ninth day of August and for the first day of

6 & 7 Vict. c. 18.

September wherever those dates respectively occur, and the first fourteen days after the said twenty-fifth day of August shall be substituted for the first fourteen days of September. Section 3.

The papers referred to are the lists of voters, claims, and objections. When these are sent to the town clerk, copies must also be sent to the clerk of the council: 51 Vict. c. 10, s. 4 (1) (*a*), *post*.

4.—(1) The court for the revision of the lists of voters in a parliamentary county may be held within the same period within which a court may be held for the revision of the lists of voters in a parliamentary borough, and seven days' notice of each court shall be sufficient. Amendments as to revision.

Revising barristers must now hold their courts between the 8th September and the 12th October: 51 Vict. c. 10, s. 6.

(2) All declarations made in pursuance of section 10 of the County Voters Registration Act, 1865, shall be transmitted to the clerk of the peace on or before the twelfth day of September, and such declarations shall be open to inspection, and copies thereof shall be sold, on any day prior to the first day on which a court for the revision of the lists of voters in a parliamentary county can be held. 28 & 29 Vict. c. 36.

The 28 & 29 Vict. c. 36, s. 10, enables any person whose place of abode is not correctly stated in the list of voters, or who has received a notice of objection founded on the second column of the list to make a declaration before a justice or commissioner for the purpose of correcting the mistake.

The declarations must now be transmitted before the 5th September, and the first day on which a revision court can be held is the 8th September. See 51 Vict. c. 10, s. 6.

(3) Where a place in a parliamentary county at which a revising barrister for such county is required to hold a court, is an urban sanitary district containing, according to the last published census for the time being, more than ten thousand inhabitants, the revising barrister shall hold at least one evening sitting of his court in such place, and section four of the Revising Barristers Act, 1873, shall apply to such sitting with the substitution of clerk of the peace for town clerk. 36 & 37 Vict. c. 70.

The 36 & 37 Vict. c. 70, s. 4, provides that an evening sitting shall commence not earlier than six nor later than seven in the evening, and shall be of such duration as, in the opinion of the revising barrister, shall be reasonable. Special notice of an evening sitting must be given by the town clerk or clerk of the peace in such manner as the revising barrister may direct.

(4) When it appears to the local authority having power to assign polling places in a parliamentary county that, for the convenience of the voters in some polling district in such county,

Section 4.

it is expedient to direct the holding of a revision court in a town near such polling district, although outside the boundary of the said county, the said authority may direct the revising barrister for the county to hold a revision court in such town.

The power to assign polling places formerly belonged to the quarter sessions under 30 & 31 Vict. c. 102, s. 34, but is now transferred to the county council under 51 & 52 Vict. c. 41, s. 3 (xii), and see 51 Vict. c. 10, s. 4 (2).

(5) The revising barrister need not insert in any list of voters for a parish in a county or borough the names of persons claiming to be inserted in such list, but may revise the list of claimants in like manner as if it were a list of voters, and sign the same as so revised, and deliver it to the clerk of the peace or town clerk as the case requires, and such clerk shall insert in the proper place in the lists of voters the name of each person appearing from the revised list of claimants so signed to be entitled to vote.

(6) The revising barrister shall, if practicable, complete the revision of the lists of voters for the parishes in one polling district in a parliamentary county, and transmit the same to the clerk of the peace of the county, before proceeding to revise the lists of voters for any parish in another polling district.

(7) The clerk of the peace shall, as soon as possible, proceed to cause copies of such lists to be printed, and in numbering the names shall prefix the number one to the first name in each polling district, so that there may be a separate series of numbers for each polling district, and such distinctive letter shall be applied to each polling district as may be determined by the local authority creating the polling district, or in default of such determination by the clerk of the peace; and in the case of a poll such letter shall be deemed to be part of the number of the elector, to be marked in manner directed by the Ballot Act, 1872.

35 & 36 Vict. c. 33.

(8) The clerk of the peace shall, as soon as possible after the receipt of all the revised lists of his county, cause to be made out and printed a separate supplemental list for each polling district, containing the names of all persons whose names do not appear in any list of voters for the parishes in such district, but who have been registered by the revising barrister as entitled to vote at the polling place of such district; and such supplemental list shall be placed at the end of the parish lists in each polling district; and the names therein shall be numbered consecutively after the rest of the lists in such polling district.

The clerk of the peace shall add at the end of the register of voters a summary of the number of voters in each polling district. Section 4.

(9) Sub-section fourteen of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878, shall not apply to parliamentary counties, and in substitution for it the following provisions shall have effect :— 41 & 42 Vict. c. 26.

(*a*) Where the name of a person appears to be entered more than once as a parliamentary voter on the lists of voters for the same parliamentary county, the revising barrister shall inquire whether such entries relate to the same person, and, on proof that such entries relate to the same person, shall retain one entry and erase the others.

(*b*) The said person may select the entry to be retained by notice in writing delivered or sent by post to the revising barrister at or before the opening of the first court at which he revises any of the lists in which any of such entries appear, or by application made by such person or on his behalf at the time of the revision of the first of such lists.

(*c*) If no selection is so made the entry to be retained shall be determined as follows :

(i) if one only of the entries is on the list of ownership voters, that entry shall be retained ; and

(ii) if all or none of the entries are on the list of ownership voters, and one of the entries is the place of abode of the voter, the entry in respect of the place of abode shall be retained ; and

(iii) in any other case the entry in that one of the lists which is first revised by the revising barrister shall be retained,

and if any such entry to be retained is objected to, the revising barrister shall not finally erase any other entry until the objection to the entry to be retained has been determined by him in favour of the voter.

These entries must not now be *erased*. The revising barrister must place an asterisk or mark against them : 51 Vict. c. 10, s. 7 (5), *post*.

5.—(1) Where a person is entered more than once as a parliamentary voter on the lists of voters for the same parliamentary Provision as to double entries in boroughs.

Section 5. borough, and the revising barrister proceeds in pursuance of sub-section fourteen of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878, to retain one of such entries for voting, and places against the others a note to the effect that such person is not entitled to vote in respect of the qualification therein contained, and such person has not selected the entry to be retained, the entry to be retained shall be determined as follows:

(*a*) If one of the entries is on the list of freemen that entry shall be retained;

(*b*) If neither of the entries is on the list of freemen, and one of the entries is the place of abode of the voter, the entry in respect of the place of abode shall be retained; and

(*c*) In any other case the entry in that one of the lists which is first revised by the revising barrister shall be retained;

and if any such entry to be retained is objected to, the revising barrister shall not finally place a note against any other entry until the objection to the entry to be retained has been determined by him in favour of the voter.

Under 41 & 42 Vict. c. 26, s. 28 (14) if the voter did not make a selection, the entry to be retained was selected by the revising barrister except in the case of freemen in which case the entry to be retained was to be that on the freemen's list.

(2) Where a parliamentary borough is divided into divisions, and notwithstanding the said provisions of the Parliamentary and Municipal Registration Act, 1878, and this Act, the name of a person is entered in the register of parliamentary voters in more than one division in the said parliamentary borough without such note as above in this section mentioned, and one of those entries is his place of abode, he shall be entitled to vote only in that division in which he is registered as a voter in respect of his place of abode, and shall not vote in respect of any other entry.

Saving as to registration of burgesses and voters in parishes in municipal boroughs.

6. * * * * *

(2) But where any part of the area of the said municipal borough was immediately before the dissolution of this present Parliament included in the area of a parliamentary borough, and such parliamentary borough ceased after such dissolution to be

a parliamentary borough, then the registration of occupation voters and the enrolment of burgesses in a parish in such municipal borough shall be conducted in like manner, so nearly as may be, as heretofore, and the Parliamentary and Municipal Registration Act, 1878, shall apply to the said municipal borough in like manner as heretofore, subject nevertheless as follows: Section 6.

(*a*) "Parliamentary county" shall, for the purpose of such application, be substituted for "parliamentary borough."

(*b*) The lists and register of voters shall be made out alphabetically in like manner as in the rest of the county, but the lists shall be framed in parts for polling districts and wards in such manner that the parts may be conveniently compiled or put together to serve as lists for polling districts or as ward lists.

(*c*) The overseers of every parish in such municipal borough shall send to the clerk of the peace for the parliamentary county two copies of the lists of voters at the same time at which they send copies to the town clerk, and the lists of voters for a parish in such borough when revised shall be transmitted by the revising barrister to such clerk of the peace, and dealt with by him as with other lists in his county, but, save as aforesaid, the town clerk of the municipal borough shall, until such transmission, act as and be deemed to be the town clerk within the meaning of the Parliamentary Registration Acts and this Act in relation to such parish, and the clerk of the peace shall not act in relation to the registration of occupation voters in such parish.

(*d*) The lists of occupation voters and burgesses shall be revised by the revising barrister for the parliamentary county in which the municipal borough is situate, and if that borough extends into more parliamentary counties than one, then by the revising barrister for the parliamentary county in which the greater part in extent of such municipal borough is situate, and such revising barrister shall hold a court in the municipal borough.

Sub-section 1 of this section was repealed by 51 Vict. c. 10, s. 4, *post*.
Sub-section (2) is applied by 51 Vict. c. 10, s. 4, *post*, to every municipal borough to which 41 & 42 Vict. c. 26, did not apply.

7.—(1) Clerks of the peace and town clerks shall send their precepts to the overseers in the present year within twelve Clerks of the peace and town clerks.

Section 7.

days after the passing of this Act, and in any subsequent year on or within seven days before the fifteenth day of April.

(2) Where a parliamentary county is co-extensive with or comprised in one county quarter sessional area, the clerk of the peace for that area shall, as regards such parliamentary county, be clerk of the peace for the county within the meaning of the Parliamentary Registration Acts and this Act, subject nevertheless to the provisions of section one hundred and one of the Parliamentary Registration Act, 1843, with respect to the town clerk of the borough of Newport, Isle of Wight, being deemed and taken to be clerk of the peace for the parliamentary county of the Isle of Wight.

6 & 7 Vict. c. 18.

(3) Where a parliamentary county extends into more county quarter sessional areas than one, the clerk of the peace of each county quarter sessional area shall, in respect of each parish in such parliamentary county which is within his jurisdiction, act as and be deemed to be the clerk of the peace of the county within the meaning of the Parliamentary Registration Acts and this Act, until the lists of voters for such parish have been revised; but the revising barrister shall transmit the revised lists of voters for such parish to the clerk of the peace of the county quarter sessional area which comprises the largest part in extent of the said parliamentary county, and save as aforesaid, such last-mentioned clerk shall, as respects the said parliamentary county, act as, and be deemed to be sole clerk of the peace of the county for the purposes of the Parliamentary Registration Acts and this Act.

Application of 30 & 31 Vict. c. 102, s. 31, as to remuneration of clerks of the peace.

8. Whereas by section thirty-one of the Representation of the People Act, 1867, it was provided that the word "expenses" in sections fifty-four and fifty-five of the Parliamentary Registration Act, 1843, should include and apply to all proper and reasonable fees and charges of any clerk of the peace of any county, or of any town clerk of any city or borough to be thereafter made or charged by him in any year for his trouble, care, and attention in the performance of the services and duties imposed on him by the above-mentioned Acts:

And whereas doubts may arise as to whether the said section would extend to services and duties imposed upon him by the Representation of the People Act, 1884, or this Act, and it is expedient to remove such doubts: Be it therefore enacted as follows:

48 & 49 Vict. c. 3.

Section thirty-one of the Representation of the People Act, 1867, with respect to the remuneration of clerks of the peace

and town clerks, shall extend to their duties under the Representation of the People Act, 1884, and this Act. Section 8.

9. Where a parish is situate partly within and partly without the boundary of a parliamentary county, or of a parliamentary borough, or of a municipal borough, the burgesses of which are enrolled in accordance with the Parliamentary and Municipal Registration Act, 1878, the Parliamentary Registration Acts and this Act shall apply as if the several parts of the parish divided by such boundaries were respectively separate parishes, and the overseers of the whole undivided parish were also the overseers of each such separate parish. Divided parishes. 41 & 42 Vict. c. 26.

In all municipal boroughs the burgesses are now enrolled in accordance with 41 & 42 Vict. c. 26. See 51 Vict. c. 10, s. 4.

10. Any person deemed to be an inhabitant occupier under section three of the Representation of the People Act, 1884, shall be qualified to be registered as if the provisions of that Act had been in force throughout the year one thousand eight hundred and eighty-four, and had been duly carried into effect. Special provisions as to voters in 1885.

11. A man entitled to be registered as a fifty pounds rental voter shall be registered as an occupation voter and not as an ownership voter, and shall be included in the expression "occupation voter" in this Act, and it shall be the duty of the overseers to insert the name of every fifty pounds rental voter in the list of occupation voters, and to add "objected" before the name of such voter in the portion of the register relating to ownership voters. Provision as to voters in respect of 50*l.* rental.

Before the passing of this Act the 50*l.* rental voter was regarded as an ownership voter.

12. Whereas by section seven of the Parliamentary and Municipal Registration Act, 1878, it is provided that every period of qualification for parliamentary voters in parliamentary boroughs which was then computed by reference to the last day of July should be computed by reference to the fifteenth day of July, and the said enactment extends to occupation voters in parliamentary counties, and it is expedient to extend the same enactment to all other voters in parliamentary counties: Be it therefore enacted as follows: Extension to freeholders of 41 & 42 Vict. c. 26, s. 7, as to the period of qualification.

Every period of qualification as defined by the said Act for any voter in a parliamentary county which is now computed by

Section 12. reference to the last day of July shall, instead of being so computed, be computed by reference to the fifteenth day of July.

As to constitution of polling districts.

13.—(1) Where a parliamentary county is co-extensive with or is comprised within one county quarter sessional area, the court of county quarter sessions having jurisdiction in that area shall be the local authority having power to divide such parliamentary county into polling districts within the meaning of the enactments relating to polling districts.

(2) Where a parliamentary county extends into more county quarter sessional areas than one, the court of county quarter sessions for the area which comprises the largest part in extent of such parliamentary county, shall be the local authority having power to divide such parliamentary county into polling districts.

(3) Where a parliamentary county extends into more county quarter sessional areas than one, the local authority having power to divide the said county into polling districts shall have power to agree with any other court of quarter sessions having jurisdiction in that area for the constitution of a joint committee to take into consideration the division of such county into polling districts and assigning of polling places to such districts, and shall, after receiving the report of the said committee, make such order thereon as they may think fit.

(4) The local authority having power to divide any parliamentary county or parliamentary borough into polling districts shall, not later than one month after the passing of this Act, take into consideration the division of such county or borough into polling districts, and, if necessary, in order to make the districts conform with the enactments relating to the division of counties and boroughs into polling districts, shall divide such county and borough, or any division of such borough, anew into polling districts, and (in a county) assign polling places to such districts, in such manner as shall make the districts so conform with the said enactments, measuring the distance therein mentioned along the nearest road, so as to meet the convenience of electors in recording their votes.

(5) A court of general sessions shall, where necessary for the purposes of this section, be assembled forthwith after the passing of this Act.

The power to divide a county into polling districts is now transferred to the county council by 52 & 53 Vict. c. 41, s. 3 (xii), and the county council must therefore be substituted for the quarter sessions in the above section.

Section 14.

As to expenses in case of divided county jurisdiction.

14.—(1) Where any expenses have been incurred, either by the court of county quarter sessions of any county quarter sessional area in dividing a parliamentary county into polling districts, or by the clerk of the peace of any county quarter sessional area under the Parliamentary Registration Acts, or this Act, and such expenses were incurred partly in respect of a locality which does, and partly in respect of a locality (whether a division, liberty, county of a town, or other locality) which does not contribute to the county rate levied by the court of county quarter sessions of such county quarter sessional area, that court shall apportion the expenses between the localities in the ratio, so nearly as may be, which the number of registered voters in each locality for the time being bear to each other, and the amount apportioned to any such non-contributing locality shall be defrayed out of the county rate or rate in the nature of a county rate levied in such locality; and an order of the said court of county quarter sessions, made on the treasurer or other officer receiving such rate, shall be obeyed by and may be enforced against such treasurer, as if he were the treasurer of the court of county quarter sessions making the order.

(2) Where a parliamentary borough is situate within the jurisdiction of more than one court of county quarter sessions, and by reason of there being no town council in such borough, the expenses of the town clerk under the Parliamentary Registration Acts and this Act are required to be allowed by the quarter sessions for the county in which such parliamentary borough is situate, such expenses shall be allowed by the court of county quarter sessions within the jurisdiction of which the larger portion of such parliamentary borough in area is situate.

(3) The receipts of any clerk of the peace under the Parliamentary Registration Acts shall be applied in aid of the rate which bears the expenses of such clerk, and if there is more than one such rate, then of each rate in the proportion in which the expenses are borne by such rates.

Repeal of 2 & 3 Will. 4, c. 45, s. 78.

15. From and after the passing of this Act section seventy-eight of the Act of Parliament passed in the second and third years of the reign of His Majesty King William the Fourth, chapter forty-five, shall be and the same is hereby repealed.

Provided that no person shall be prevented by any other Act from being registered as a parliamentary voter in respect of his occupation of any chambers or premises in any of the colleges or halls of the Universities of Oxford or Cambridge.

Section 16.

Informations as to persons disqualified by parochial relief.

16. Any person registered as a parliamentary voter in the register of voters for a parish may, by notice in writing delivered or sent to the clerk of the guardians for such parish, or for the union containing such parish, require such clerk to send to him a list giving the names and addresses, as appearing in the books of the guardians and their officers, either of all men of full age, or of all persons who have, during the period specified in the notice, received out of the rates administered by such guardians, either parochial relief or out-door parochial relief, and at the time of receiving such relief were recorded as resident in the said parish or union, and the clerk of the guardians, on payment of fees after the rate allowed by the Parliamentary and Municipal Registration Act, 1878, for returns by registrars of births and deaths, shall send the list with such of the said particulars as are specified in the notice, and the relieving officers of the guardians shall give the clerk the information he requires for that purpose, and shall receive from the clerk a reasonable remuneration for so doing, and if any clerk or relieving officer refuses or fails to comply with this section he shall be deemed guilty of a wilful act of commission or omission within the meaning of section ninety-seven of the Parliamentary Registration Act, 1843.

41 & 42 Vict. c. 26.

6 & 7 Vict. c. 18.

These fees must be at the rate specified in 37 & 38 Vict. c. 88, s. 28, *i.e.*, a fee of twopence and a further fee of twopence for every name in the return : 41 & 42 Vict. c. 26, s. 11.

Repeal.

17. The Acts mentioned in the First Schedule to this Act shall to the extent in the third column of that Schedule mentioned be repealed without prejudice to anything done in pursuance thereof before the passing of this Act.

Enactment of forms, &c. 6 & 7 Vict. c. 18. 28 & 29 Vict. c. 36. 30 & 31 Vict. c. 102. 41 & 42 Vict. c. 26. 48 & 49 Vict. c. 3.

18. The forms and instructions contained in the Second and Third Schedules to this Act shall be used and observed in all cases to which they apply, and shall be substituted in all such cases for the forms, instructions, and directions contained in the schedules to the Parliamentary Registration Act, 1843, the County Voters Registration Act, 1865, the Representation of the People Act, 1867, the Parliamentary and Municipal Registration Act, 1878, and the Representation of the People Act, 1884, but a disregard of any form or instruction shall not of itself invalidate any list, notice, or other thing.

The forms and instructions in the schedule to this Act are now superseded by those contained in the Registration Order, 1889, issued under 51 Vict. c. 10, s. 13 ; 51 & 52 Vict. c. 41, s. 76 (7).

19. In this Act, unless the context otherwise requires,— Section 19.

The expression "ownership voter" means a person entitled to vote in respect of the ownership of property, whether of freehold, leasehold, or copyhold tenure. Definitions.

The expression "fifty pounds rental voter" means a person who on the sixth day of December, one thousand eight hundred and eighty-four was registered as a voter for a county in pursuance of section twenty of the Reform Act, 1832, in respect of the occupation of any land or tenement for which he was bonâ fide liable to a yearly rent of not less than fifty pounds, and who continues by virtue of section ten of the Representation of the People Act, 1884, to be entitled to be registered as a voter in respect of such occupation. 2 & 3 Will. 4, c. 35.

The expression "occupation voter" means, as regards a parliamentary county, a person entitled to vote in respect of any qualification conferred by the Representation of the People Act, 1884, and as regards a parliamentary borough means a person entitled to vote in respect of any qualification conferred by section five of the Representation of the People Act, 1884, or in respect of a household qualification or a lodger qualification as defined by that Act.

The expression "Parliamentary Registration Acts" means the Parliamentary Registration Act, 1843, and the Parliamentary and Municipal Registration Act, 1878, inclusive of any Acts and enactments amending the said Acts, or otherwise relating to revising barristers or to the registration of voters, and of any Acts and enactments relating to rating in so far as they are auxiliary to or deal with the registration of voters. 6 & 7 Vict. c. 18. 41 & 42 Vict. c. 26.

The expression "parliamentary county" means a county returning a member or members to serve in Parliament, and where a county is divided for the purpose of such return means a division of such county.

The expression "court of county quarter ssssions" means the justices in general or quarter sessions assembled for any county at large, or riding, or parts of a county at large having a separate commission of the peace and a separate court of quarter sessions, and includes the justices in general or quarter sessions assembled for the Isle of Ely.

The expression "county quarter sessional area" means the area of the jurisdiction as extended by this Act of any court of county quarter sessions, and includes the Isle of Ely; and save as aforesaid, for the purposes of this Act every liberty, county of a city, or county of a town which for the purposes of parliamentary elections forms part of any county at large, riding, or

Section 19. parts shall be deemed to be within the jurisdiction of the court of county quarter sessions and clerk of the peace of such county at large, riding, or parts.

The expression "clerk of the peace for a county quarter sessional area" means the clerk of the peace for such county at large, riding, or parts as aforesaid, and includes the clerk of the peace for the Isle of Ely.

Other expressions in this Act have, unless the context otherwise requires, the same meaning as in the Parliamentary Registration Acts.

Extent and short title of Act.

20. This Act shall not apply to Scotland or Ireland, and may be cited for all purposes as the Registration Act, 1885.

SCHEDULES.

Section 17.

FIRST SCHEDULE.

Enactments Repealed.

Session and Chapter.	Title.	Part repealed.
6 Vict. c. 18 - -	The Parliamentary Registration Act, 1843.	Section forty. Schedule A.
28 & 29 Vict. c. 36 -	The County Voters Registration Act, 1865.	Section four. Section five. Section twelve. Schedule A.
30 & 31 Vict. c. 102 -	The Representation of the People Act, 1867.	So much of section thirty as relates to persons entitled to vote for a county in respect of the occupation of premises other than lodgings.
31 & 32 Vict. c. 58 -	The Parliamentary Electors Registration Act, 1868.	Section seventeen. Section nineteen.

Preamble.

THE BURIAL BOARDS (CONTESTED ELECTIONS) ACT, 1885.

48 & 49 VICT. CHAP. 21.

AN Act to amend the Law with respect to Contested Elections of Burial Boards. [25th June, 1885.]

WHEREAS it is expedient that provision should be made with respect to the payment of expenses incurred in contested elections of burial boards appointed by vestries:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Burial Boards (Contested Elections) Act, 1885.

Expenses of polls to be paid by the burial board.

2. The reasonable expenses incurred in taking a poll of the ratepayers of any parish or part of a parish on the occasion either of the appointment or re-appointment by the vestry of persons to be the burial board for such parish or part of a parish, or of the filling up by the vestry of any vacancy or vacancies on such burial board, shall be defrayed by the burial board in the same manner as if they were expenses incurred by such burial board in carrying the Burial Acts into execution, and may be included in any certificate to the overseers in respect of the expenses of such burial board.

The members of a burial board are elected by the inhabitants of the parish in vestry. A casual vacancy is also filled up by the vestry: 15 & 16 Vict. c. 85, s. 11; 18 & 19 Vict. c. 128, s. 4.

The expenses of a burial board are paid out of the poor rate by the overseers upon the certificate of the burial board: 15 & 16 Vict. c. 85, s. 19. In places not separately maintaining their own poor the expenses are raised by the overseers out of a separate rate: 18 & 19 Vict. c. 128, s. 13.

Preamble.

THE PUBLIC HEALTH AND LOCAL GOVERNMENT CONFERENCES ACT, 1885.

48 & 49 VICT. CHAP. 22.

An Act to provide for Expenses incurred in relation to Conferences of Local Authorities. [25th June, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Public Health and Local Government Conferences Act, 1885.

Expenses of local authorities may be allowed.

2. Any local authority may, when empowered by and subject to any regulations made by the Local Government Board in that behalf (which regulations the said Board is hereby authorised from time to time to make, vary, or rescind), pay the reasonable expenses of any member or members or clerk to the local authority attending any conference or meeting of members of local authorities held for the purpose of discussing any matter which is connected with the duties which devolve on them, and any reasonable expenses incurred in purchasing reports of the proceedings of any such meeting or conference, and may charge the amount to any rates applicable to the general purposes of the Public Health Act, 1875, within their district.

38 & 39 Vict. c. 55.

For the definition of a local authority see the next section.

The provisions of this Act are very similar to those of the Poor Law Conferences Act, 1883, *ante*, p. 198.

The expenses of an urban authority under this Act will be defrayed out of the general district rate; of a rural authority as general expenses.

Interpretation.

3. Expressions used in this Act have the same respective meanings as they have in the Public Health Act, 1875, save and except that in England the term "local authority" shall not mean or include the urban authority of any borough.

The Act will apply therefore to local boards, improvement commissioners, and to all rural sanitary authorities.

Act to apply to Ireland.

4. In the application of this Act to Ireland—

(*a*) The term "Local Government Board" shall mean the Local Government Board for Ireland:

(*b*) The Public Health (Ireland) Act, 1878, shall be substituted for the Public Health Act, 1875: Section 4. 41 & 42 Vict. c. 52.

(*c*) The expression "local authority" shall mean rural sanitary authority and urban sanitary authority.

THE REDISTRIBUTION OF SEATS ACT, 1885.

48 & 49 VICT. CHAP. 23.

An Act for the Redistribution of Seats at Parliamentary Elections, and for other purposes. [25th June, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as the Redistribution of Seats Act, 1885. Short title.

This Act is inserted here only in so far as it relates to the duties of overseers in connection with registration, the qualification of voters, boundaries, &c.

* * * * *

PART II.

SUPPLEMENTAL PROVISIONS.

10. The occupation in immediate succession of different premises situate within a Parliamentary borough shall, for the purpose of qualifying a person for voting in any division of such borough in respect of occupation (otherwise than as a lodger), have the same effect, as if all such premises were situate in that division of the borough, in which the premises occupied by such person at the end of the period of qualification are situate. Qualification by occupation of premises in immediate succession in divided borough.

* * * * *

13. Where a Parliamentary borough is divided into divisions, the returning officer of such borough shall be the returning officer for each division, and may, by writing under his hand, appoint a fit person to be his deputy for all or any of the purposes relating to a Parliamentary election in any such division, As to boroughs divided into divisions.

Section 13.

and anything in relation to a Parliamentary election authorised or required to be done by, to, or before the returning officer (except the fixing of the day for taking the polls), may be done by, to, or before the returning officer himself or such deputy.

(2) Every such deputy shall, in so far as he acts as returning officer, be deemed to be included in the expression "returning officer" within the meaning of the law relating to Parliamentary elections.

(3) For the purpose of determining the distance of the residence of any voter, and for all purposes of and incidental to the registration of voters in a Parliamentary borough divided into divisions, and for the purpose of the enactments respecting the division of any such borough into polling districts, all the divisions shall be deemed to form the same Parliamentary borough:

Provided that the lists and register of voters for the borough shall be framed, printed, and arranged in parts so as to correspond to the divisions thereof; and the voters in each division shall be numbered in a separate series.

It follows from this provision that a person may be entitled to the 10*l.* occupation qualification if he resides within seven miles of any part of the borough, though more than that distance from the division for which he is qualified.

(4) In a borough divided into divisions, the election for two or more of such divisions shall be deemed to be the same election within the meaning of the enactments relating to personation and to voting, and the question which may be asked of voters at the poll shall be, "Have you already voted here or elsewhere at this election for the borough of either in this or in any other division?"

(5) Subject to the provisions of this Act, where any Parliamentary borough is divided into divisions, the members for each division of such borough shall be elected by the persons registered in such division as voters for the borough, and the nomination and other proceedings at Parliamentary elections for such division shall be conducted in the same manner as if such division were a separate constituency, and the law relating to Parliamentary elections shall apply to each division as if it were a separate Parliamentary borough.

Registration of freemen in divided boroughs.

14.—(1) In a Parliamentary borough divided into divisions persons registered as freemen shall be entitled to vote—

(*a*) If their place of abode is in the borough, then in the division in which such place of abode is situate; and

(*b*) If their place of abode is not in the borough, then in the division to which such persons (in this section referred to as non-resident freemen) are allotted by the revising barrister,

and shall not be entitled in respect of the qualification of freeman to vote elsewhere than in such division, and the registration of voters shall be conducted and the register of voters arranged so as to give effect to this enactment.

(2) The non-resident freemen shall be allotted in equal numbers so nearly as may be among the several divisions of the borough as follows:—

(*a*) At the first revision after the passing of this Act the revising barrister shall first settle by lot the order of the divisions of the borough for the purpose of the allotment, and then allot among such divisions the non-resident freemen, allotting to the division first in order the freemen whose names are earliest in alphabetical order, and so on with the other divisions and freemen;

(*b*) At every subsequent annual revision at which any non-resident freemen not on the then existing register are registered, the revising barrister shall allot them among the divisions in such manner as may, so nearly as may be, maintain an equal number of non-resident freemen in each division, and shall allot them according to alphabetical order by allotting those whose names are the earliest in alphabetical order to the first division (according to the order settled as aforesaid) to which at that revision any freeman is to be allotted.

* * * * *

Detached parts of parishes.

18. Any such constitution of new parishes or division or alteration of boundaries of parishes made for poor law purposes by or in pursuance of any Act of Parliament, as has come into operation on or before the twenty-sixth day of March, one thousand eight hundred and eighty-five, and any alteration of the boundary of a county which is incidental to such constitution, division, or alteration, shall have effect also for all purposes of the law relating to Parliamentary elections for any future Parliament.

* * * * *

Marking of boundaries where they do not

20.—(1) Where the boundary of a Parliamentary borough or division of a borough does not follow the boundary of a parish or township, or other well-defined line of demarcation, the local

Section 20. follow well-defined lines.

authority having power to divide such borough into polling districts shall, as soon as may be after the passing of this Act, cause the several points of deviation of the boundary to be marked by means of boundary stones, posts, or other marks, which shall from time to time be maintained and renewed by such local authority.

The local authority who have power to divide a borough into polling districts are, "in every municipal borough, and in every borough any part of which forms a municipal borough, the town council of such borough, and in other boroughs the justices of the peace acting for such borough, or if there be no such justices then the justices acting for the division of the county in which such borough or the greater part thereof is situate; and in cases where a parliamentary borough is constituted by the combination of two or more municipal boroughs, then the local authority shall mean the town council of that municipal borough in which the nomination takes place": 30 & 31 Vict. c. 102, s. 34.

(2) For the purposes of this section, any officer authorised in that behalf by the local authority, may, by himself and his workmen, enter upon any lands, doing as little damage as possible, and making compensation for such damage, the amount of such damage to be determined in case of dispute in manner provided by the Lands Clauses Consolidation Acts, with respect to disputed compensation for land.

(3) All expenses properly incurred by a local authority in pursuance of this section shall be defrayed as part of the expenses of the town clerk in the registration of voters for the Parliamentary borough.

* * * * *

THE LOCAL LOANS SINKING FUNDS ACT, 1885.

48 & 49 VICT. CHAP. 30.

An Act to amend the Local Loans Act, 1875, as regards the establishment of a Sinking Fund.

[22nd July, 1885.]

38 & 39 Vict. c. 83.

WHEREAS it is expedient to amend the Local Loans Act, 1875, as regards the provision of sinking funds for the discharge of local loans:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Section 1.

1. This Act may be cited for all purposes as the Local Loans Sinking Funds Act, 1885. Short title.

2. This Act shall not extend to Scotland or Ireland. Limits of Act.

3. This Act shall come into operation on the first day of September, one thousand eight hundred and eighty-five. Commencement of Act.

4. Notwithstanding anything contained in the Local Loans Act, 1875, every loan borrowed in manner provided by that Act may be discharged by the establishment of a sinking fund as therein mentioned, notwithstanding that a sinking fund may not have been prescribed by the special Act authorising the loan. Discharge of loans by sinking funds.

This Act amends section 13 of the 38 & 39 Vict. c. 83. That section provides for the discharge of loans, and enacts that such discharge shall be secured by one or more of certain prescribed methods. Of these methods one relates to a sinking fund, and the section enacted as follows:—"*When a sinking fund is established, but not otherwise* (such discharge shall be secured) by the establishment of a sinking fund, and the application thereof in manner in this Act mentioned." The effect of the amendment on the text is to repeal the words in italics, and to enable a loan to be discharged by means of a sinking fund, although it has not been prescribed by the special Act authorising the loan.

It will be remembered that by 38 & 39 Vict. c. 83, s. 4, a local authority (including a rural sanitary authority) is to be deemed to borrow subject to the provisions of that Act, whenever it raises a loan by the issue of debentures, or debenture stock, or annuity certificates purporting to be created under its powers, or partly in one way and partly in another.

THE TITHE RENTCHARGE REDEMPTION ACT, 1885.

48 & 49 VICT. CHAP. 32.

An Act to amend and extend the Acts relating to the redemption of Tithe Rentcharge in England and Wales.

[22nd July, 1885.]

WHEREAS an Act was passed in the session of Parliament held in the sixth and seventh years of the reign of His late Majesty King William the Fourth, intituled "An Act for the Commutation of Tithes in England and Wales," and the said Act has been amended and the provisions thereof have been extended by Acts passed in the sessions of Parliament held respectively in the first year, the first and second years, the second and third years, the third year, the fifth and sixth years, the ninth and tenth years, the tenth and eleventh years, the twenty-third and twenty-

6 & 7 Will. 4, c. 71.

1 Vict. c. 69.

1 & 2 Vict. c. 64.

2 & 3 Vict. c. 62.

Preamble.

3 & 4 Vict. c. 15.
5 & 6 Vict. c. 54.
9 & 10 Vict. c. 73.
10 & 11 Vict. c. 104.
23 & 24 Vict. c. 93.
36 & 37 Vict. c. 42.
41 & 42 Vict. c. 42.

fourth years, the thirty-sixth and thirty-seventh years, and the forty-first and forty-second years of the reign of Her present Majesty:

And whereas it is expedient that the said Acts should be amended, and that the provisions thereof should be further extended in manner hereinafter mentioned:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Tithe Rentcharge Redemption Act, 1885.

Powers of recited Acts extended to tithe rentcharges under local Acts.

2. The powers and provisions of the said recited Acts respecting the redemption of rentcharge (except as otherwise by this Act is provided) shall extend and be applicable to all corn rents, rentcharges, and money payments, payable out of or charged on any lands by virtue of any Act of Parliament in lieu of tithes.

The provisions relating to the redemption of rentcharges are chiefly contained in 9 & 10 Vict. c. 73, 23 & 24 Vict. c. 93, and 41 & 42 Vict. c. 42. Section 5 of the 9 & 10 Vict. c. 73, and section 3 of 41 & 42 Vict. c. 42, contain the provisions for the redemption of a rentcharge not exceeding 20*s.*, and 41 & 42 Vict. c. 42, ss. 4, 6, for the redemption of rentcharges exceeding that sum. The redemption of rentcharges erroneously charged on lands not within the parish is regulated by 9 & 10 Vict. c. 73, ss. 3, 4, and 23 & 24 Vict. c. 93, s. 33. Redemption where the land is divided, and further apportionment is inconvenient, is regulated by 23 & 24 Vict. c. 93, s. 32, and 41 & 42 Vict. c. 42, s. 5. The 41 & 42 Vict. c. 42, ss. 1, 2 provide for the redemption of rentcharges on lands required for churches, cemeteries, schools, public buildings, sewage farms, sewers, gas, or waterworks.

Evidence to accompany application for redemption.

3. Every application to the Commissioners for the redemption of any such corn rent, rentcharge, or money payment shall be accompanied with a certified copy or extract from the Act, and from any award made in pursuance thereof, showing the amount of the corn rent, rentcharge, or money payment proposed to be redeemed, and with such evidence or proof of the payment of such corn rent, rentcharge, or money payment together with such particulars of the land liable thereto as the Commissioners shall think fit.

Provided always, that if the said corn rent, rentcharge, or money payment should have been varied by any order of justices at quarter sessions, the consideration money payable for the redemption shall be calculated on such varied amount, and a certified copy of the last of such orders or other satisfactory

evidence of the variation shall be furnished to the said Commissioners, and such certified copies or extracts shall be verified and signed by the person or persons having the custody of the said Act, award, or order of justices respectively. Section 3.

The Board of Agriculture now take the place of the Commissioners above referred to: 52 & 53 Vict. c. 30, s. 2.

4. In lieu of the deposit of copies of the certificate of redemption as provided by the said recited Acts, copies of every certificate of redemption under this Act, sealed with the seal of the said Commissioners, shall be deposited with such person or persons as the said Commissioners, having regard to the circumstances of each case, shall determine. Deposit of copies of certificate of redemption.

By 9 & 10 Vict. c. 73, s. 12, copies of the certificate of redemption had to be deposited in the like custody and in the same manner as by 6 & 7 Will. 4, c. 71, s. 64, was provided concerning a confirmed instrument of apportionment, *i.e.*, in the registry of the diocese, and with the incumbent and churchwardens, or such other fit persons as the Commissioners should approve.

5. This Act shall be taken and construed as part of the first-recited Act as amended and extended by the several Acts passed for the amendment thereof. This Act to be construed as part of first-recited Act and Amendment Acts.

THE PUBLIC HEALTH (SHIPS, &c.) ACT, 1885.

48 & 49 VICT. CHAP. 35.

An Act to amend the Public Health Act, 1875, in relation to Ships and Port Sanitary Authorities.

[31st July, 1885.]

WHEREAS it is expedient to amend the provisions of the Public Health Act, 1875, relating to ships and port sanitary authorities: 38 & 39 Vict. c. 55.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Public Health (Ships, &c.) Act, 1885, and shall be construed as one with the Public Health Act, 1875, in this Act referred to as the principal Act. Short title.

Section 2.
Amendment of section 110 of the Public Health Act, 1875.

2. Section one hundred and ten of the principal Act shall have effect not only for the purpose of the provisions of that Act relating to nuisances, but also for the purpose of such of the provisions of that Act relating to infectious diseases and hospitals as are referred to in the schedule to this Act.

Section 110, as amended, will now read as follows :—

For the purposes of the provisions of this Act relating to nuisances, and also for the purpose of such of the provisions of this Act relating to infectious diseases and hospitals, as are contained in sections 120, 121, &c., any ship or vessel lying in any river, harbour, or other water within the district of a local authority shall be subject to the jurisdiction of that authority in the same manner as if it were a house within such district; and any ship or vessel lying in any river, harbour, or other water not within the district of a local authority shall be deemed to be within the district of such local authority as may be prescribed by the Local Government Board, and where no local authority has been prescribed, then of the local authority whose district nearest adjoins the place where such ship or vessel is lying. The master or other officer in charge of any such ship or vessel shall be deemed, for the purpose of the said provisions, to be the occupier of such ship or vessel. This section shall not apply to any ship or vessel under the command or charge of any officer bearing Her Majesty's Commission, or to any ship or vessel belonging to any foreign government.

Constitution of permanent port sanitary authorities.

3. In any case in which the Local Government Board are by the principal Act authorised permanently to constitute a port sanitary authority by provisional order, they may permanently constitute a port sanitary authority by Order.

Every order made under this section shall specify a day on which it shall come into operation in the event of its not becoming a provisional order as hereinafter provided, and at least four weeks before such day a copy of it shall be sent by the Local Government Board to every riparian authority which is by the order or otherwise required to contribute to the expenses of the port sanitary authority, and if before such day notice in writing shall be received by the Local Government Board from any such riparian authority objecting to the order, and such notice is not withdrawn before such day, the order shall be deemed to be a provisional order duly made by the Local Government Board under the principal Act, and in the event of its being confirmed by Parliament shall come into operation on such day as may be provided in that behalf in the Act confirming it.

Any order made under this section may, if the same has not become a provisional order, be repealed, altered, or amended by any subsequent order made by the Local Government Board.

Section 287 of the principal Act enabled the Local Government Board by provisional order permanently to constitute any local authority, whose district or part of whose district forms part of or abuts on any part of a port in England, or the waters of such port, or any conservators, commissioners, or other persons having authority in or over such port or any

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NOTE.

part thereof (which local authority, conservators, commissioners, or other persons are in the Act referred to as a "riparian authority"), the sanitary authority of the whole of such port or of any part thereof (in the Act referred to as the "port sanitary authority"). The Local Government Board were also empowered by provisional order permanently to constitute a port sanitary authority for the whole or any part of a port, by combining any two or more riparian authorities having jurisdiction within such port, or any part thereof, and to prescribe their joint action; or by forming a joint board consisting of representative members of any two or more riparian authorities in the same manner as is by the Act provided with respect to the formation of a united district. And the Board were further empowered by provisional order permanently to constitute a port sanitary authority for any two or more ports, by forming a joint board consisting of representative members of all or any of the riparian authorities having jurisdiction within such ports or any part thereof.

The effect of the above amendment is to abolish the necessity for a provisional order in the foregoing cases, and to enable the Board in each of the cases to permanently constitute a port sanitary authority by an order which will require no confirmation by Parliament.

SCHEDULE.

Sections 120, 121, 124, 125, 126, 128, 131, 132, and 133 of the Public Health Act, 1875.

The following are the words of the above sections as applied by this Act:—

Section 120.—Where any local authority are of opinion, on the certificate of their medical officer of health or of any other legally qualified medical practitioner, that the cleansing and disinfecting of any *ship* or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious disease, it shall be the duty of such authority to give notice in writing to the *master or other officer in charge* of such *ship* or part thereof, requiring him to cleanse and disinfect such *ship* or part thereof and articles within a time specified in such notice. If the person to whom notice is so given fails to comply therewith, he shall be liable to a penalty of not less than one shilling, and not exceeding ten shillings, for every day during which he continues to make default; and the local authority shall cause such *ship* or part thereof and articles to be cleansed and disinfected, and may recover the expenses incurred from the *master or other officer in charge of such ship* in default in a summary manner. Where the *master or other officer in charge of such ship* or part thereof is from poverty or otherwise unable, in the opinion of the local authority, effectually to carry out the requirements of this section, such authority may, without enforcing such requirements on such *master or other officer*, with his consent, cleanse and disinfect such *ship* or part thereof and articles, and defray the expense thereof.

Section 121.—Any local authority may direct the destruction of any bedding, clothing, or other articles which have been exposed to infection from any dangerous infectious disorder, and may give compensation for the same.

Section 124.—When any suitable hospital or place for the reception of the sick is provided within the district of a local authority, or within a convenient distance of such district, any person who is suffering from any dangerous infectious disorder, and is on board any ship or vessel, may, on a certificate signed by a legally qualified medical practitioner, and with the

Schedule.

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consent of the superintending body of such hospital or place, be removed by order of any justice to such hospital or place at the cost of the local authority. An order under this section may be addressed to such constable or officer of the local authority as the justice making the same may think expedient; and any person who wilfully disobeys or obstructs the execution of such order shall be liable to a penalty not exceeding ten pounds.

It will be seen that this section already applied to ships, but the new Act makes clear what authorities may act under it. (See section 2, *ante*, p. 386.)

Section 125.—Any local authority may make regulations (to be approved of by the Local Government Board) for removing to any hospital to which such authority are entitled to remove patients, and for keeping in such hospital as long as may be necessary, any person brought within their district by any ship or boat who are infected with a dangerous infectious disorder, and such regulations may impose on offenders against the same reasonable penalties not exceeding forty shillings for each offence.

Section 126.—Any person who—

(1) While suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop, inn, or public conveyance, or enters any public conveyance without previously notifying to the owner, conductor, or driver thereof that he is so suffering; or

(2) Being in charge of any person so suffering, so exposes such sufferer; or,

(3) Gives, lends, sells, transmits, or exposes without previous disinfection, any bedding, clothing, rags, or other things which have been exposed to infection from any such disorder,

shall be liable to a penalty not exceeding five pounds; and a person who, while suffering from any such disorder, enters any public conveyance without previously notifying to the owner or driver that he is so suffering, shall in addition be ordered by the court to pay such owner and driver the amount of any loss and expense they may incur in carrying into effect the provisions of this Act with respect to disinfection of the conveyance. Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags, or other things for the purpose of having the same disinfected.

The application of this section to ships is not clear. It does not appear to have any bearing upon persons or things in ships beyond what it had before the Act.

Section 128.—Any person who knowingly lets for hire any *ship* or part of a *ship* in which any person has been suffering from any dangerous infectious disorder, without having such *ship* or part of a *ship* and all articles therein liable to retain infection, disinfected to the satisfaction of a legally qualified medical practitioner, as testified by a certificate signed by him, shall be liable to a penalty not exceeding twenty pounds.

Section 131.—Any local authority may provide for the use of the inhabitants of their district hospitals or temporary places for the reception of the sick, and for that purpose may—

Themselves build such hospitals or places of reception; or contract for the use of any such hospital or part of a hospital or place of reception; or

Enter into any agreement with any person having the management of any hospital, for the reception of the sick inhabitants of their district, on payment of such annual or other sum as may be agreed on.

Two or more hospital authorities may combine in providing a common hospital.

Schedule.

NOTE.

Section 132.—Any expenses incurred by a local authority in maintaining in a hospital, or in a temporary place for the reception of the sick (whether or not belonging to such authority), a patient who is not a pauper, shall be deemed to be a debt due from such patient to the local authority, and may be recovered from him at any time within six months after his discharge from such hospital or place of reception, or from his estate in the event of his dying in such hospital or place.

Section 133.—Any local authority may, with the sanction of the Local Government Board, themselves provide or contract with any person to provide a temporary supply of medicine and medical assistance for the poorer inhabitants of their district.

THE SCHOOL BOARDS ACT, 1885.

48 & 49 VICT. CHAP. 38.

An Act to amend the Law relating to School Boards so far as affected by the incorporation of a Municipal Borough and as respects the divisions of the Metropolis.

[31st July, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Provision as to school boards affected by incorporation of municipal borough. 45 & 46 Vict. c. 50.

1. Whereas by sub-section one of section two hundred and thirteen of the Municipal Corporations Act, 1882, it is enacted as follows:

"Where a petition for a charter is referred to the Committee of Council, and it is proposed by the charter to extend the Municipal Corporation Acts to the municipal borough to be created by the charter, the committee of council may settle a scheme for the adjustment of the powers, rights, privileges, franchises, duties, property, and liabilities of any then existing local authority whose district comprises the whole or part of the area of that borough, either with or without any adjoining or other place, and also of any officer of that authority:"

And whereas sub-section six of the same section two hundred and thirteen provides that a local authority for the purposes of the above enactment shall mean the authorities therein mentioned, "and any other authority not in this section excepted and not being a school board, and having powers of local government and of rating for public purposes:"

Section 1.

And whereas difficulties have arisen respecting the effect of the creation by a charter of a municipal borough, where the whole or part of the area of such borough is comprised in the district of a school board, and it is expedient to authorise the removal of such difficulties by a scheme under the said Act:

Be it therefore enacted as follows:—

(1) The words "and not being a school board" in sub-section six of section two hundred and thirteen of the Municipal Corporations Act are hereby repealed;

A scheme under that section if affecting a school board—

(*a*) Shall before being settled by the Committee of Council be referred to the consideration of the Education Department; and

(*b*) Shall not place the new borough under more than one school board; and

(*c*) May provide for the continuance of any bye-laws in force at the date of the scheme.

(2) Where within seven years before the passing of this Act a charter has extended the Municipal Corporations Act, 1882, or the Acts thereby consolidated to the municipal borough created by the charter, any scheme relating to a school board which might have been made under the said Acts if this Act had passed at the date of the said charter may be made after the passing of this Act, and Part Eleven of the Municipal Corporations Act, 1882, shall apply accordingly: Provided that—

(*a*) Such scheme may be made on the petition either of the council of the said borough or of the persons who composed the school board, or any of them; and

(*b*) The council of the borough may petition against such scheme in accordance with sub-section four of section two hundred and thirteen of the Municipal Corporations Act, 1882; and

(*c*) Any such scheme may validate any acts done by the Education Department or the school board or the council of the borough or any justice since the date of the charter.

(3) This section shall be in addition to and not in derogation of any powers in relation to school boards for the time being vested in the Committee of the Lords of the Privy Council on Education (who are in this section referred to as the Education Department).

Section 2.

Division of Lambeth division of London.

2. Whereas by the Elementary Education Act, 1870, it was enacted that the School Board for London should consist of such number of members elected by the divisions of the metropolis specified in the Fifth Schedule to that Act as the Education Department might by order fix, and power was given to the Education Department from time to time to alter by way of increase or decrease the number of members of any of the said divisions, but no power was given to alter the said divisions, and it is expedient to divide the Lambeth division into two divisions;

Be it therefore enacted as follows:—

(1) The Lambeth division of the metropolis for the purpose of the Elementary Education Acts, 1870 and 1873, shall be divided into two divisions, named East Lambeth and West Lambeth, and the Fifth Schedule to the Elementary Education Act, 1870, shall be construed as if for "Lambeth" there were substituted "East Lambeth" and "West Lambeth."

33 & 34 Vict. c. 75.

(2) The Education Department shall, so soon as may be after the passing of this Act, by order determine the boundaries of the divisions of East Lambeth and West Lambeth for the purposes aforesaid and the number of members to be elected by each of such divisions, subject nevertheless to any subsequent alteration of the number of members in pursuance of the said Acts.

(3) At the first election of the School Board for London which is held after the passing of this Act, members shall be elected for the two divisions constituted by this Act; but nothing in this Act shall affect the School Board for London until such members come into office.

Short title and construction.

3. This Act may be cited as the School Boards Act, 1885.

This Act, so far as relates to school boards on the incorporation of a municipal borough, shall be construed as one with the Municipal Corporations Act, 1882, and together with that Act may be cited as the Municipal Corporation Acts, 1882 and 1885.

This Act, so far as regards the divisions of the metropolis, shall be construed as one with the Elementary Education Acts, 1870 and 1873, and may be cited together with those Acts as the Elementary Education Acts, 1870 to 1885.

33 & 34 Vict. c. 75. 36 & 37 Vict. c. 86.

Preamble.

THE MEDICAL RELIEF DISQUALIFICATION REMOVAL ACT, 1885.

48 & 49 VICT. CHAP. 46.

An Act to prevent Medical Relief disqualifying a person from voting. [6th August, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

1. This Act may be cited as the Medical Relief Disqualification Removal Act, 1885.

Medical relief not to disqualify.

2.—(1) Where a person has in any part of the United Kingdom received for himself, or for any member of his family, any medical or surgical assistance, or any medicine at the expense of any poor rate, such person shall not by reason thereof be deprived of any right to be registered or to vote either—

(*a*) As a parliamentary voter; or

(*b*) As a voter at any municipal election; or

(*c*) As a burgess; or

(*d*) As a voter at any election to an office under the provisions of any statute;

but nothing in this section shall apply to the election—

(*a*) Of any guardian of the poor; or

(*b*) Of any member of any parochial board in Scotland; or

(*c*) Of any other body acting in the distribution of relief to the poor from the poor rate.

The 39 & 40 Vict. c. 61, s. 14, provides that no person shall be entitled to vote in the election of a guardian, or in the election to an office under the provisions of any statute who shall be in receipt of relief given to himself, or his wife or child, or who shall have been in receipt of such relief on any day during the year last preceding such election. The same section provides that in the case of any person objected to on this ground, a certificate from the clerk of the guardians under his hand shall be sufficient evidence of such person having received relief. These provisions are still in full force with regard to the election of guardians. They remain in force with regard to the other elections mentioned in the text, subject to the provisions in the text; that is to say, the receipt of medical relief will not disqualify a voter at these elections.

The following cases have been decided upon the construction of the 2 Will. 4, c. 45, s. 36 (which disqualifies a person in receipt of alms or parochial relief as a parliamentary voter), and of the above enactments.

Section 2. NOTE.

The appellant having applied to the guardians for work, was employed by them, by way of relief, in breaking stones, and paid out of the parochial funds, the amount paid to him being much greater than the value of his work to the guardians. It was held that he had received "parochial relief or other alms" within 2 Will. 4, c. 26, so as to disqualify him from voting. *Magarrill* v. *Whitehaven* (*Overseers of*), 16 Q. B. D. 242; 55 L. J. Q. B. 38; 53 L. T. (N.S.) 667; 34 W. R. 279; 49 J. P. 743. By the provisions of a charity, regulated by a scheme of the Charity Commissioners, a certain number of the poor inhabitants of a borough, who had not been for two years in receipt of parish relief, were received into an almshouse where certain weekly payments and other benefits were bestowed on them. They were liable to be removed for misconduct and other causes. It was held (following *Harrison* v. *Carter*, 2 C. P. D. 26; 46 L. J. C. P. 27; 35 L. T. (N.S.) 511; 25 W. R. 182) that they were disqualified from voting, having received alms within 2 Will. 4, c. 45, s. 36. *Baker* v. *Monmouth* (*Town Clerk of*), 53 L. T. (N.S.) 668; 34 W. R. 64; 49 J. P. 776. The wife of the appellant, being near her confinement, applied to the relieving officer of the union for an order for the attendance of a medical man. The guardians authorised the relieving officer to give her an order for such attendance, but she was, in fact, attended during her confinement by an uncertificated midwife, who was sent to her and paid by the relieving officer. It was held that the relief afforded to his wife was "medical assistance," within 48 & 49 Vict. c. 46, s. 2, and that the appellant was not disqualified from being registered as a voter: *Honeybone* v. *Hambridge*, 18 Q. B. D. 418; 56 L. J. Q. B. 46; 51 J. P. 103; 56 L. T. (N.S.) 365; 35 W. R. 520.

The claimants during the qualifying period occupied almshouses in a borough and received out of a charitable fund for the sustenance of the inmates allowances of 6*s.* a week. The charity was regulated by an Act of Parliament, which provided that the inmates of the almshouses were to be persons who from age, ill-health, accident, or infirmity, should be unable to maintain themselves. It was held that the facts showed a receipt of alms within 2 & 3 Will. 4, c. 45, s. 36: *Edwards* v. *Lloyd*, 20 Q. B. D. 302; 57 L. J. Q. B. 121; 58 L. T. (N.S.) 409; 52 J. P. 519. The Licensed Victuallers Asylum is an institution incorporated under Royal Charter. The design of the institution is to receive and maintain decayed aged licensed victuallers and their wives and widows. Only those who have contributed to the funds of the institution as subscribers or donors are eligible to be elected as inmates of the asylum. The funds of the institution are largely augmented by private benevolence. The inmates are subject to various rules of discipline which may be altered from time to time by the board of management. No person having an income exceeding a certain limit is qualified to be elected, or to remain an inmate of the asylum. The funds of the institution are applied, amongst other things, in augmentation of the incomes of the inmates up to a limit fixed from time to time by the board. It was held that the rules of the institution did not necessarily show that the inmates were in receipt of alms: *Daniels* v. *Allard*, W. N. 1887.

(2) Every person shall be qualified to be registered as a voter and to vote as aforesaid who would be so qualified if the provisions of this Act had come into force on the fifteenth day of July one thousand eight hundred and eighty-four.

Provision for registration in the present year.

3.—(1) In the year one thousand eight hundred and eighty-five, in England, where the overseers have entered "objected" against the names of any persons in the list of ownership voters or in the old lodgers list, or have omitted the names of any voters from any list of voters made by them, and such entry or

Section 3.

omission has been made on the ground only of those persons having received such medical or surgical assistance or medicine as in this Act mentioned, and such names would not if this Act had previously passed have been so objected to or omitted, the overseers shall make a list of such persons, and such list shall be published, revised, and dealt with in all respects as if it were part of the list of claimants in respect of the occupation of property with the qualifications following (namely):—

The revising barrister shall, without the appearance of or any proof by any such person, retain his name in the list made by the overseers under this section, unless he is objected to, and the objector proves that such person is not entitled to be registered; and if such objection is made the revising barrister shall, notwithstanding the absence of the said person, take the evidence of the overseers as to his right to be registered.

Any person whose name ought to have been inserted in the list made by the overseers under this section, and has been omitted therefrom, may claim to have his name inserted in the lists of voters by giving to the overseers, within six days after the publication of such lists, notice of such claim in the manner and form provided by law with respect to other claims, and the overseers shall produce all such claims to the revising barrister, and he shall revise and deal with the same in like manner as with ordinary claims.

(2) The clerk of the peace or town clerk shall insert in their proper place in the register the names of the persons in the said list, when revised.

(3) Every clerk of the peace and town clerk acting under the Acts relating to the registration of parliamentary voters shall forthwith after the passing of this Act issue precepts to the overseers informing them of their duties under it; provided that this Act shall not be construed to create any disability where such disability does not now exist.

Definition of medical and surgical assistance.

4. The term "medical or surgical assistance" in this Act shall include all medical and surgical attendance, and all matters and things supplied by or on the recommendation of the medical officer having authority to give such attendance and recommendation at the expense of any poor rate.

See *Honeybone* v. *Hambridge*, cited in the notes to section 2, *supra*.

Preamble.

THE PUBLIC HEALTH (MEMBERS AND OFFICERS) ACT, 1885.

48 & 49 VICT. CHAP. 53.

An Act to amend the Public Health Act, 1875, with respect to the Members and Officers of Local Authorities.

[6th August, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title. 38 & 39 Vict. c. 55.

1. This Act may be cited as the Public Health (Members and Officers) Act, 1885, and shall be construed as one with the Public Health Act, 1875, in this Act called the principal Act.

Amendment of section 193 of the Public Health Act, 1875.

2. Notwithstanding anything in the hundred and ninety-third section of the principal Act, or any similar restrictions in any local Act, to the contrary, it shall not be unlawful for any officer or servant appointed or employed under the principal Act or local Act by the local authority to be concerned or interested in any contract with the local authority made with such consent or approval as is hereinafter mentioned for the sale, purchase, leasing, or hiring of any lands, rooms, or offices, or to be concerned or interested in any contract with the local authority as a shareholder in any joint stock company, and no officer or servant of a local authority shall be incapable of holding any office or of being employed under the principal Act or local Act, or be liable to any penalty by reason only of his having been concerned or interested either before or after the passing of this Act in any such contract as aforesaid. No such contract as aforesaid shall be made after the passing of this Act, or approved if made before the passing of this Act, for the sale, purchase, leasing, or hiring of any lands, rooms, or offices except with the consent of two-thirds of the number of the members of the local authority present at a meeting held after seven clear days notice shall have been published in some newspaper circulating in the neighbourhood, and after notice shall have been sent in writing to every member stating the nature of the contract, and the time and place of the meeting at which the question is to be considered.

Section 193 of the Public Health Act, 1875, provides as follows: Officers or servants appointed or employed under this Act by the local authority,

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shall not in any wise be concerned or interested in any bargain or contract made with such authority for any of the purposes of this Act. If any such officer or servant is so concerned or interested, or, under colour of his office or employment, exacts or accepts any fee or reward whatsoever other than his proper salary, wages, and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this Act, and shall forfeit and pay the sum of 50*l.*, which may be recovered by any person with full costs of suit, by action of debt.

In *Fletcher* v. *Hudson*, 5 Ex. D. 287; 49 L. J. Ex. 793; 43 L. T. (N.S.) 404; 45 J. P. 5, it was laid down by BRAMWELL, B., that the penalty under section 193 might be recovered by any person, although he was neither a party aggrieved nor had the consent of the Attorney-General under section 253 (p. 332). To meet this decision the 47 & 48 Vict. c. 74, s. 2 (p. 520), provided that proceedings for the recovery of any penalty under section 193 should not be taken without the consent in writing of the Attorney-General. In other respects, however, section 193 remained in full force. In *Todd* v. *Robinson* (No. 2), 14 Q. B. D. 739; 54 L. J. Q. B. 47; 52 L. T. (N.S.) 120; 49 J. P. 278, it was held that an officer of a local board, who was a shareholder in a gas company having a contract with the board for the lighting of the streets, was, so long as the contract existed, interested in a bargain or contract with the board within the meaning of section 193, and if the contract was capable of producing any profit to the shareholders of the company, he was liable to the penalty imposed by that enactment. In another case, also decided by the Court of Appeal (*Burgess* v. *Clark*, 14 Q. B. D. 735; 33 W. R. 269; 49 J. P. 388), it was held that a demise of rooms was a bargain or contract within the meaning of section 193, and that if an officer, employed by a local board, let rooms to the board at a rent payable to him, although the rooms were used by the board in the transaction of its business, he became liable to the penalty; for the rent could not be considered as an *allowance* in addition to his salary under sections 189, 193, being unconnected with the performance of any services in the course of his employment under the board. It was to meet these and similar cases that the present statute has been passed. It is to be remembered that the decision in *Todd* v. *Robinson* (No. 1), 12 Q. B. D. 530; 53 L. J. Q. B. 251; 50 L. T. (N.S.) 298; 32 W. R. 858; 48 J. P. 692, remains unaffected by this Act. It decides that when any penalty is recovered under the section the Crown cannot remit the penalties under 22 Vict. c. 32, as that Act relates only to persons upon whom a penalty was imposed by judicial authority.

A contract made contrary to the provisions of section 193 is void, and cannot be enforced: *Melliss* v. *Shirley Local Board*, 16 Q. B. D. 446; 55 L. J. Q. B. 143; 53 L. T. (N.S.) 810; 34 W. R. 187. But *semble*, that if after the making of a contract with a local authority, an officer of the authority became interested in it, the contract would not be avoided. By the terms of contracts entered into with a local authority for the purpose of the Public Health Act, 1875, the surveyor of the local authority was to receive from the contractors, in respect of bills of quantities to be prepared by him, percentages on the amounts he should certify to be due to such contractors respectively by the local authority:—*Held*, that in respect of each contract, the surveyor was liable to a penalty as having been concerned or interested therein. A local authority employed their surveyor, apart from his ordinary duties, to superintend the construction of certain drainage works as their engineer, and agreed to remunerate him by a percentage on the outlay:—*Held*, that the surveyor was liable to the penalty: *Whiteley* v. *Barley*, 21 Q. B. D. 154; 57 L. J. Q. B. 643; 60 L. T. (N.S.) 87; 36 W. R. 823; 52 J. P. 595. A municipal corporation having adopted a drainage scheme which had been drawn up by their surveyor, resolved that he should superintend the works, and that he should be paid at a certain rate on the cost of the work, the whole remuneration not to exceed a fixed sum. Proceedings having been instituted against the surveyor to recover penalties under the Public Health Act, 1875, on the ground that he was interested in the contracts, the corporation resolved to contribute the sum

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of 300*l.* towards his legal expenses. Certain penalties having been recovered against the surveyor, a rule was obtained for a writ of *certiorari* to bring up the order of the corporation settling the remuneration of the surveyor and the order for the payment of the sum of 300*l.* in order that they might be quashed on the ground that they were illegal and *ultra vires*, and that the corporation had no power to make them. This rule was made absolute, and the court further ordered that "the prosecutors (the mayor, aldermen, and burgesses) pay the costs of and occasioned by the application." The court was now asked to make an order that certain members of the corporation should personally pay the costs of and occasioned by the application for the writ of *certiorari*, the issuing thereof and consequent thereon:—*Held*, that the members of the corporation who voted in favour of the resolution for carrying on the legal proceedings were personally liable for the costs occasioned thereby: *Reg.* v. *Whiteley*, 58 L. J. M. C. 164; 61 L. T. 253. A local authority employed one of their officers, apart from his ordinary duties, to superintend the execution of certain works on their behalf, upon the terms that he should be paid for his services by a commission upon the contract price of such works, whereby he became "interested" in the contract for the work contrary to the provisions of section 193 of the Public Health Act, 1875. The officer duly superintended the execution of the works, and the local authority passed resolutions for the payment of, and paid him, the amount of the stipulated commission. On application for a *certiorari* to bring up such resolutions for the purpose of quashing them, it was admitted by the defendants that the payment was invalid, but it was contended that a fixed sum equal to the amount of the commission might have been lawfully paid to the officer as an "allowance" under section 189 of the Public Health Act, 1875, and that the invalidity of the payment being in form rather than in substance, the court in the exercise of their discretion ought to refuse the application: *Held*, that the payment being illegal the application must be granted. *Semble*, that the term "allowance" in section 189 does not include an allowance of money: *Reg.* v. *Mayor, &c., of Ramsgate*, 23 Q. B. D. 66; 58 L. J. Q. B. 352; 61 L. T. 333; 37 W. R. 781; 53 J. P. 740; 5 T. L. R. 434. The council of a borough, being also the local sanitary authority under the Public Health Act, 1875, appointed the defendant, a solicitor and the town clerk of the borough, to be clerk to the sanitary authority; and by a resolution of the council the defendant's salary was fixed at a certain sum, "to include all legal charges, except for contentious business matters, travelling expenses, and payments out of pocket." Subsequently the council, as local sanitary authority, promoted a sewage scheme, which had not been contemplated when the defendant's salary was fixed, and in connection with this scheme the defendant did work partly in respect of contentious and partly in respect of non-contentious matters. On the completion of the sewage works the council passed a resolution that the defendant be paid a sum of money for his services in connection with the scheme; and the money was duly paid to and received by him:—*Held*, that the facts did not show an acceptance by the defendant under colour of his office, or employment of a fee or reward other than his proper salary, wages, and allowances within the meaning of section 193 of the Public Health Act, 1875, and that he was not liable to the penalty imposed by the section. *Semble*, the word "allowances" in section 193 of the Public Health Act, 1875, includes extra payments for extra work, and is not limited to allowances in respect of lodgings, coals, gas, and other like matters: *Edwards* v. *Salmon*, 23 Q. B. D. 531; 58 L. J. Q. B. 571; 38 W. R. 166. A municipal corporation having, contrary to 38 & 39 Vict. c. 55, s. 193, appointed their officer to act and to be remunerated for acting in a contract, though interested, and thereafter having by orders paid out of the borough fund the expenses and penalties thereby incurred by such officer, a rule for a *certiorari* to quash such order was made absolute:—*Held*, that the costs of the *certiorari* must be paid by those members of the corporation individually who joined in making the illegal orders for paying the officer's expenses and penalties: *Reg.* v. *Vaile*, 54 J. P. 134.

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Restriction on recovery of penalties.

3. Proceedings for the recovery of any penalty under Rule 70 of Schedule II. to the principal Act shall not be taken except with the consent in writing of the Attorney-General.

Rule 70 here referred to enabled a common informer to sue for the penalty of 50*l.* imposed on a member of a local board for acting when disqualified. See per BRAMWELL, B., in *Fletcher* v. *Hudson*, cited in the note to section 2, *ante*. The consent in writing of the Attorney-General will now be necessary. The discretion of that officer as to granting his consent is unqualified. See *Ex parte Hubert*, 47 J. P. 724; 15 Cox C. C. 166.

Removal of disqualification.

4. No member of any local authority shall vacate his office by reason only of his having any share or interest in any newspaper in which any advertisement is inserted relating to the affairs of such local authority, or of the district subject to the jurisdiction of such local authority, anything in any general or local Act of Parliament to the contrary notwithstanding.

For the purposes of this section the expression "local authority" means any "local board" or "improvement commissioners" as defined by the principal Act.

This section, like the preceding one, applies only to urban authorities.

THE CRIMINAL LAW AMENDMENT ACT, 1885.

48 & 49 VICT. CHAP. 69.

An Act to make further provision for the Protection of Women and Girls, the suppression of brothels, and other purposes. [14th August, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Criminal Law Amendment Act, 1885.

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PART II.

Suppression of Brothels.

Summary proceedings against brothel keeper, &c.

13. Any person who—

(1) Keeps or manages or acts or assists in the management of a brothel, or

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(2) Being the tenant, lessee, or occupier of any premises, knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution, or

(3) Being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

shall on summary conviction in manner provided by the Summary Jurisdiction Acts be liable—

(1) To a penalty not exceeding twenty pounds, or, in the discretion of the court, to imprisonment for any term not exceeding three months, with or without hard labour, and

(2) On a second or subsequent conviction to a penalty not exceeding forty pounds, or, in the discretion of the court, to imprisonment for any term not exceeding four months, with or without hard labour;

and in case of a third or subsequent conviction such person may, in addition to such penalty or imprisonment as last aforesaid, be required by the court to enter into a recognizance, with or without sureties, as to the court seems meet, to be of good behaviour for any period not exceeding twelve months, and in default of entering into such recognizance, with or without sureties (as the case may be), such person may be imprisoned for any period not exceeding three months, in addition to any such term of imprisonment as aforesaid.

Any person on being summarily convicted in pursuance of this section may appeal to a court of general or quarter sessions against such conviction.

The enactments for encouraging prosecutions of disorderly houses contained in sections five, six, and seven of the Act passed in the twenty-fifth year of the reign of King George the Second, chapter thirty-six, as amended by the enactment contained in section seven of the Act passed in the fifty-eighth year of the reign of King George the Third, chapter seventy, shall, with the necessary modifications, be deemed to apply to prosecutions under this section, and the said enactments shall, for the purposes of this section, be construed as if the prosecution in such enactments mentioned included summary

Section 13. proceedings under this section as well as a prosecution on indictment.

* * * * *

The above section has been included in this work because of the duties and liabilities imposed on overseers by the incorporated enactments, the text of which is set out below.

25 Geo. 2, c. 36.

S. 5. And in order to encourage prosecutions against persons keeping bawdy-houses, gaming-houses or other disorderly houses, be it enacted by the authority aforesaid, that if any two inhabitants of any parish or place, paying scot and bearing lot therein do give notice in writing to any constable (or other peace officer of the like nature, where there is no constable), of such parish or place of any person keeping a bawdy-house, gaming-house, or other disorderly house in such parish or place, the constable or such officer as aforesaid, so receiving such notice shall forthwith go with such inhabitants to one of His Majesty's justices of the peace of the county, city, riding, division or liberty in which such parish or place does lie, and shall upon such inhabitants making oath before such justice, that they do believe the contents of such notice to be true, and entering into a recognizance in the penal sum of twenty pounds each to give or produce material evidence against such person for such offence, enter into a recognizance in the penal sum of thirty pounds to prosecute with effect such person for such offence at the next general or quarter session of the peace or at the next assizes to be holden for the county in which such parish or place does lie, as to the said justices shall seem meet, and such constable or other person shall be allowed all the reasonable expenses of such prosecution, to be ascertained by any two justices of the peace of the county, city, riding, division, or liberty where the offence shall have been committed, and shall be paid the same by the overseers of the poor of such parish or place ; and in case such person shall be convicted of such offence, the overseers of the poor of such parish or place shall forthwith pay the sum of ten pounds to each of such inhabitants ; and in case such overseer shall neglect or refuse to pay to such constable or other officer such expenses of the prosecution as aforesaid, or shall neglect or refuse to pay, upon demand, the said sums of ten pounds and ten pounds, such overseers and each of them shall forfeit to the person entitled to the same double the sum so refused or neglected to be paid.

S. 6. Provided always, and be it enacted by the authority aforesaid, that upon such constable or other officer entering into such recognizance to prosecute as aforesaid, the said justice of the peace shall forthwith make out his warrant to bring the person so accused of keeping a bawdy-house, gaming-house, or other disorderly house before him, and shall bind him or her over to appear at such general or quarter sessions or assizes, there to answer to such bill of indictment as shall be found against him or her for such offence ; and such justice shall and may, if in his discretion he thinks fit, likewise demand and take security for such person's good behaviour in the meantime and until such indictment shall be found, heard, and determined, or be returned by the grand jury not to be a true bill.

S. 7. Provided also, that in case such constable shall neglect or refuse, upon such notice to go before any justice of the peace, or to enter into such recognizance, or shall be wilfully negligent in carrying on the said prosecution, he shall for every such offence forfeit the sum of twenty pounds to each of such inhabitants so giving notice as aforesaid.

58 Geo. 3, c. 70.

S. 7. Be it enacted, and it is hereby enacted, that a copy of the notice which shall be given to such constable, shall also be served on or left at the

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places of abode of the overseers of the poor of such parish or place, or one of them, and such overseers or overseer of the poor shall be summoned, or have reasonable notice to attend before such justice of the peace before whom such constable shall have notice to attend; and if such overseers or overseer of the poor shall then and there enter into such recognizances to prosecute such offender as the constable is in and by the said Act required to enter into, then it shall not be necessary for, nor shall such constable be required to enter into such recognisance; but if such overseers or overseer of the poor shall neglect to attend such justice on having such notice, or shall attend, and shall decline or refuse to enter into such recognizance to prosecute, then such constable shall enter into the same, and shall prosecute, and shall be entitled to his expenses to be allowed as in and by the said Act directed.

In order to entitle a person to claim the reward payable under these statutes, it is necessary that the prosecution should be conducted by the constable. It is not sufficient if the prosecution is conducted by the informing inhabitants: *Clark* v. *Rice*, 1 B. & Ald. 694.

Where a recognizance has been entered into under 25 Geo. 2, c. 36, s. 5, the jurisdiction of the borough sessions to try the offence is not taken away: *Reg.* v. *Charles*, 7 Jur. (N.S.) 1308.

In an action by A., an inhabitant of K., against C. and D., as overseers to recover the sum due under the above statutes, it appeared that A. and another inhabitant B. had given the requisite notices with respect to a disorderly house kept by E., and that E. was prosecuted and pleaded guilty while F. and G. were overseers of the parish; and that after C. and D. came into office E. was called up for judgment and sentenced. A. thereupon demanded in writing the sum of 10*l.* from C. and D., but they refused to pay it. There were churchwardens in the parish, but no demand had been made upon them:—*Held*, that E. was not to be considered as *convicted* until the judgment of the court upon the indictment against him was properly pronounced; and, therefore, that the demand for the award was properly made upon, and the action rightly brought against C. and D., and that their predecessors F. and G. were not liable. *Held*, also, that it is not necessary that the demand should be made in writing. *Held*, also, that it was not necessary to make the demand upon the churchwardens as well as upon C. and D., the overseers, or to join the former in the action; and that the action was well brought against the latter, upon whom the demand was made. *Quære*, whether churchwardens are included in the term "overseers" in the statute, so as to be liable to be called upon to pay the reward: *Burgess* v. *Boetefleur*, 7 M. & G. 481; 13 L. J. M. C. 122; 8 Jur. 621; 8 J. P. 358.

Where the keeper of a disorderly house had upon prosecution merely been bound over to come up for judgment when called upon:—*Held*, that there had been such a *conviction* as entitled the informing inhabitants to the reward: *Jephson* v. *Barker*, 3 T. L. R. 40.

It is optional to comply with the preliminaries set forth in 25 Geo. 2, c. 36, and 58 Geo. 3, c. 70, so as to secure a reward, or to omit those preliminaries and prove the case in the ordinary way, dispensing with such reward: *Kerwin* v. *Hines*, 54 L. T. (N.S.) 610; 50 J. P. 230; *Chippendale* v. *Hirst*, L. J. M. C. (1887), p. 193.

The constable mentioned in 25 Geo. 2, c. 36, s. 5, must be one of the parish constables where these exist, and an inspector of police in the metropolis is not a parish constable for this purpose. The constable must be the real prosecutor; it is not sufficient if the prosecution has been really undertaken and the costs found by a vigilance committee. The costs are not ascertained by two justices if they are taxed by the clerk of the peace, and merely signed by two justices. And the penalty of double costs cannot be recovered against an overseer unless there has been an individual demand upon him: *Garland* v. *Ahrbeck*, 5 T. L. R. 91.

Preamble.

THE HOUSING OF THE WORKING CLASSES ACT, 1885.

48 & 49 VICT. CHAP. 72.

An Act to amend the Law relating to Dwellings of the Working Classes. [14th August, 1885.]

WHEREAS it is expedient to amend the law with reference to the provision of suitable dwellings for the working classes:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Labouring Classes Lodging Houses.

Adoption of Labouring Classes Lodging Houses Acts.

1.—(1) The Labouring Classes Lodging Houses Acts, 1851 to 1867, may be adopted—

(*a*) For the city of London by the Commissioners of Sewers of the city of London;

(*b*) For the metropolis, exclusive of the city of London, by the Metropolitan Board of Works if one of Her Majesty's Principal Secretaries of State approves of such adoption;

(*c*) For any urban sanitary district by the urban sanitary authority of such district in accordance with section ten of the Public Health Act, 1875; and

38 & 39 Vict. c. 55.

(*d*) For any rural sanitary district, by the sanitary authority of the district upon such certificate published by the Local Government Board, and after such delay as hereinafter mentioned.

It should be observed that this Act deals with three distinct sets of Acts relating to the housing of the working classes.

The first consists of the Labouring Classes Lodging Houses Acts, (14 & 15 Vict. c. 34; 29 & 30 Vict. c. 28; 30 & 31 Vict. c. 28). These Acts enable local authorities to provide lodging-houses for the labouring classes, and to fit up and furnish them with all necessary furniture, fittings, and appliances. By reason of the extended meaning given to the word "lodging-houses" by the Acts of 1885, s. 13, *post*, a local authority may under this group of Acts provide a cottage and a garden of not more than half an acre of which the yearly value does not exceed 3*l*. These Acts may be put in operation by all sanitary authorities, urban or rural.

The second consists of the Artizans Dwellings Acts (31 & 32 Vict. c. 130; 42 & 43 Vict. c. 64; 45 & 46 Vict. c. 54, Part II.). Their object may be said to be the pulling down of premises in a state dangerous to health, or unfit for human habitation, or which are necessary for the opening up and

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ventilation of courts and alleys. They cannot be put in operation except by district boards or vestries in the metropolis, the Commissioners of Sewers in the City of London, and urban sanitary authorities in boroughs and urban sanitary districts.

The third consists of the Artizans and Labourers Dwellings Improvement Acts (38 & 39 Vict. c. 36; 42 & 43 Vict. c. 63; and 45 & 46 Vict. c. 54, Part I.). This group enables the local authority to deal not merely with unhealthy houses, but with unhealthy areas. Its objects are more fully stated in the preamble to the 38 & 39 Vict. c. 36. This group applies to the City of London, the metropolis, and all urban sanitary districts.

The above Act is to a certain extent to be read as one with each of these groups. But although it provides for the dealing with certain cases arising under Group II., under the powers conferred by Group III., and *vice versâ*, it does not really affect the distinct character of each group.

For an explanation of the terms "urban sanitary district and urban sanitary authority," see section 6 of the Public Health Act, 1875.

Section 10 of the Public Health Act, 1875, provides that where the Labouring Classes Lodging Houses Acts are in force within the district of any urban authority, such authority shall have all the powers, rights, duties, capacities, liabilities and obligations in relation to such Acts exerciseable by or attaching to the council, incorporated Commissioners, local board, improvement Commissioners, and other Commissioners or persons acting in the execution of the said Acts, or any of them; and that where the Acts are not in force within the district of any urban authority, such authority may adopt such Acts. Nothing is necessary, apparently, for the adoption of the Acts except the resolution of the urban authority to that effect, for the provisions of the 14 & 15 Vict. c. 54, as to adoption by local boards and improvement Commissioners are repealed. The consent of the ratepayers is not now necessary, nor can the ratepayers now interfere to prevent or delay the adoption of the Acts. It is to be observed, however, that it is optional for the urban authority to adopt the Acts or not; unless, indeed, section 7 of this Act supplies the means of compelling the sanitary authority to adopt the Acts.

For the definition of a rural sanitary district, see section 9 of the Public Health Act, 1875. The guardians of the union are the rural sanitary authority.

(2) A rural sanitary authority in any district desiring to adopt the said Acts may apply to the Local Government Board for the certificate required for such adoption, and shall specify in such application the area in which they consider that accommodation is necessary for the housing of the labouring classes, and thereupon the Local Government Board shall direct a local inquiry to be held by one of their inspectors, and if after such local inquiry the inspector shall certify that accommodation is necessary in such area for the housing of the labouring classes, and that there is no probability that such accommodation will be provided without the execution of the said Acts, and that having regard to the liability which will be incurred by the rates, it is under all the circumstances prudent for the said authority to undertake the provision of the said accommodation under the powers of the said Acts, the Local Government Board may if they think fit publish that certificate in the "London Gazette," and thereupon the sanitary authority may adopt the said Acts: Provided that—

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(*a*) Unless the Local Government Board state in publishing such certificate that, by reason of the date of the next ordinary election of members of such authority or otherwise, an emergency renders it necessary to adopt the Acts immediately, such adoption in pursuance of the certificate shall not take place before the ordinary election of members of such authority which is held next after the date of the local inquiry; and

(*b*) After the end of twelve months from the date of the certificate the Acts shall not be adopted without a fresh certificate; and

(*c*) No land shall be acquired, nor buildings erected under the said Acts outside of the area mentioned in the certificate, except after a fresh application, inquiry, and certificate.

No particular form is required for this application. All that need be stated is the desire of the rural authority to adopt the Acts in a certain specified area. They may also request permission to limit the burden of the expenses to one or more contributory places.

As to the enquiry by the Local Government Board inspector, see section 10 (3), *post*.

After the publication in the *Gazette*, but subject to the provisions following the sanitary authority may adopt the Acts.

The effect of this proviso(*a*) is as follows :—

The election of guardians occurs in the months of March and April in each year. In order that the ratepayers may have a voice in determining whether the Acts should be adopted, the guardians cannot in general adopt the Acts until after the election next after the date of the publication of the certificate in the *Gazette*. But if this would involve a long delay or if for any other reason the Local Government Board think the Acts should be adopted at once, they may insert a statement to that effect in the certificate, and thereupon the rural authority may forthwith adopt the Acts without waiting for the election.

It is to be observed that, so far as this section is concerned, the adoption of the Acts is optional with the authority. They need not adopt them even after the Local Government Board have published their certificate ; but if they do not adopt the Acts for a year they must apply again *de novo* for another certificate.

The power to acquire land or erect buildings mentioned in proviso (*c*) must be exercised only within the area mentioned in the certificate.

(3) Where the rural sanitary authority think it just that the burden of the expenses of the execution of the said Acts should be borne by some contributory place or places only in their district, instead of by the whole of their district, the authority may in their application to the Local Government Board request permission to limit the burden of such expenses to such contributory place or places, and thereupon the justice of such limitation shall be inquired into at the local inquiry, and the Local Government Board, if satisfied after the local inquiry that the circumstances of the contributory place or places and of the

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rest of the district render such limitation just, may make an order to that effect, and thereupon the expenses of the execution of the said Acts in the area mentioned in the order shall be borne by the contributory place or places named in the order instead of by the whole district. The provisions of this enactment with respect to the burden of the expenses shall apply upon every application for a fresh certificate.

As to what are contributory places, see section 229 of the Public Health Act, 1875.

This order is distinct from the certificate, and will presumably take effect if the Acts are adopted. Apparently the order need not be made at the same time as the certificate, but probably it will in practice be made at the same time. The order will be binding and conclusive and may be published as the board may direct. See section 295 of the Public Health Act, 1875.

A fresh certificate will be necessary under sub-section (2) (*b*) and (*c*).

(4) When the Labouring Classes Lodging Houses Acts, 1851 to 1867, have been adopted by the Metropolitan Board of Works, or by any sanitary authority, or by the Commissioners of Sewers of the City of London, then

(*a*) Such board or authority or Commissioners shall have power to carry the said Acts into execution within the area for which they are adopted, subject in the case of a rural sanitary authority to the foregoing provisions with respect to rural sanitary authorities, and for that purpose may exercise the same powers whether of contract or otherwise as in the execution of their duties under the Metropolis Management Act, 1855, and the Acts amending the same, or under the Public Health Act, 1875, or under the Acts conferring powers on such Commissioners of Sewers respectively; 18 & 19 Vict. c. 120. 38 & 39 Vict. c. 55.

(*b*) All expenses incurred by such board or authority in the execution of the said Acts shall be defrayed—

(i) In the case of the Metropolitan Board of Works, out of the Dwelling House Improvement Fund under the Artizans and Labourers Dwellings Improvement Act, 1875;

(ii) In the case of an urban sanitary authority, as part of the general expenses of their execution of the Public Health Act, 1875; and

(iii) In the case of a rural sanitary authority, as special expenses incurred in the execution of the Public Health Act, 1875, and, save where the burden of such expenses is by order of the Local Government Board to be borne by one contributory

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place only, shall be deemed to be incurred for the common benefit of all the contributory places liable to bear such expenses: Provided that if on the application of the rural sanitary authority it is so declared at the time of the publication of the certificate by the Local Government Board, then the said expenses of the rural sanitary authority shall be defrayed as general expenses of the said authority in the execution of the Public Health Act, 1875, and if such expenses are not to be borne by the whole of the district, shall be charged to the contributory places which are to bear the same as an addition to the general expenses otherwise chargeable thereto;

(iv) In the case of the City of London, out of the Dwelling House Improvement Fund under the Artizans and Labourers Dwellings Improvement Act, 1875;

(*c*) All receipts under the said Acts shall be paid to the fund out of which such expenses are payable, and the accounts of such receipts and expenses shall be audited in like manner and with the like incidents and consequences respectively as the accounts of the general or special expenses above mentioned; but separate accounts shall be kept of the receipts and expenditure for the purposes of the said Acts;

(*d*) Such Board and Commissioners may borrow for the purpose of the execution of the said Acts, in like manner and subject to the like conditions as they may borrow for the purposes of the Artizans and Labourers Dwellings Improvement Act, 1875, and every such authority may borrow for the purpose of the execution of the said Acts in like manner and subject to the like conditions as for the purpose of defraying the above-mentioned general or special expenses;

(*e*) In the application of the said Acts to the City of London, "district" shall mean the City of London, and "board" the Commissioners of Sewers of that city; and in the application of the said Acts to the metropolis, "district" shall mean the Metropolis exclusive of the City of London, and "Board" the Metropolitan Board of Works; and in the application of the said Acts to a rural sanitary district, "district" shall mean the said

district, and "board" the rural sanitary authority. In any case where an urban sanitary authority does not levy a borough rate or any general district rate, but is empowered by a Local Act or Acts to borrow money and to levy a rate or rates throughout the whole of their district for purposes similar to those or to some of those for which a general district rate is leviable, it shall be lawful for such sanitary authority to defray the expenses incurred in the execution of the said Acts by means of money to be borrowed, and a rate or rates to be levied, under such Local Act or Acts. Section 1.

The general expenses of an urban sanitary authority are payable out of the general district fund and general district rate.

Special expenses of a rural sanitary authority are levied by a separate poor rate under section 230 of the Public Health Act, 1875.

The declaration by the Local Government Board as to the contributory place or places liable for the expenses must be made when the certificate is published. Apparently it cannot be done afterwards like the order made under sub-section (3).

General expenses of a rural sanitary authority are payable out of the poor rates, under section 230 of the Public Health Act, 1875.

The fund out of which these expenses are payable, is either the general district fund, or the fund above declared to be for the common benefit of contributory places, or the common fund out of which the general expenses are payable.

As to the auditing of receipts and expenses, see sections 245—250 of the Public Health Act, 1875.

The borrowing powers will be found in sections 223—244 of the same Act.

Definition of purposes of Labouring Classes Lodging Houses Acts.

2.—(1) The expression "lodging-houses for the labouring classes" when used in the Labouring Classes Lodging Houses Acts, 1851 to 1867, shall be deemed to include separate houses or cottages for the labouring classes, whether containing one or several tenements, and the purposes of the said Act shall be deemed to include the provision of such houses and cottages.

The term "lodging-houses" is misleading by reason of this provision. The power to provide "lodging-houses" includes the power to provide separate houses and cottages, *and to furnish them* (14 & 15 Vict. c. 34, s. 36). The word "cottage," may also include a garden not exceeding half an acre, the value of which does not exceed 3*l.* by the year (see section 13, *post*).

(2) Land for the purposes of the said Acts as amended by this Act may be acquired by the Metropolitan Board of Works, by the Commissioners of Sewers of the City of London, and by any sanitary authority in like manner as if those purposes were purposes of the Public Health Act, 1875, and sections one hundred and seventy-five to one hundred and seventy-eight,

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both inclusive, of that Act (relating to the purchase of land), shall apply accordingly, and shall for the purposes of this Act extend to the metropolis in like manner as if the Commissioners of Sewers and Metropolitan Board of Works respectively were a local authority in the said sections mentioned, and one of Her Majesty's Principal Secretaries of State were substituted for the Local Government Board.

Provision respecting sites of certain metropolitan prisons.

3. In the event of the removal from their present sites of Millbank Penitentiary or Pentonville Penitentiary, it shall be lawful for Her Majesty, on the recommendation of the Commissioners of Her Majesty's Treasury, and subject to such conditions as they may think reasonable, and in the event of the removal from its present site of Coldbath Fields Prison, or House of Detention, Clerkenwell, it shall be lawful for the justices of the peace for the county of Middlesex if the justices think fit so to do, to sell and convey those respective sites or any part or parts thereof to the Metropolitan Board of Works, at a fair market price.

Amendment of Artizans Dwellings Acts.

Amendment of 31 & 32 Vict. c. 130.

4. The owner of any premises who is required by an order of a local authority made under the Artizans and Labourers Dwellings Act, 1868, to execute any works on or to demolish any premises, shall cease to have the power to require the local authority to purchase such premises.

The 42 & 43 Vict. c. 64, ss. 3, 4, provided that the owner of premises who was ordered to execute any works, or to demolish such premises might require the local authority to purchase them, the purchase-money if not agreed upon to be settled by arbitration. This power is now taken away, and the two sections are repealed by this Act.

Amendment of Artizans and Labourers Dwellings Improvement Acts.

Amendment of 38 & 39 Vict. c. 36, s. 8, and schedule; 42 & 43 Vict. c. 63; 45 & 46 Vict. c. 54, schedule.

5.—(1) The Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882, shall extend to all urban sanitary districts.

Formerly these Acts extended only to the metropolis and to urban sanitary districts having a population of more than 25,000.

(2) In either of the following cases:

(*a*) Where an officer of health has reported to any local authority in the metropolis, exclusive of the City of London, either in pursuance of the Artizans and Labourers Dwellings Act, 1868, that any premises are in a condition or state dangerous to health, so as to be unfit

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for human habitation, or in pursuance of section eight of the Artizans Dwellings Act, 1882, that the pulling down of any obstructive buildings would be expedient, and such authority resolve that the case of such premises or buildings is of such general importance to the metropolis that it should be dealt with by a scheme under the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882; or

(*b*) Where any such official representation as mentioned in section three of the Artizans and Labourers Dwellings Improvement Act, 1875, has been made to the Metropolitan Board of Works in relation to any houses, courts, or alleys within a certain area, and the Metropolitan Board of Works resolve that the case of such houses, courts, or alleys is not of general importance to the metropolis, and should be dealt with under the Artizans Dwellings Acts, 1868 to 1882:

such local authority or board may submit such resolution to one of Her Majesty's Principal Secretaries of State, and thereupon the Secretary of State may appoint an arbitrator, and direct him to hold a local inquiry, and such arbitrator shall hold such inquiry, and report to the Secretary of State as to whether, having regard to the size of the area, to the number of houses to be dealt with, to the position, structure, and sanitary condition of such houses, and of the neighbourhood thereof, and to the provisions of section three of the Artizans and Labourers Dwellings Improvement Act, 1875, the case is either wholly or partially of any and what importance to the metropolis at large, with power to such arbitrator to report that in the event of the case being dealt with under the Artizans Dwellings Acts, 1868 to 1882, the Metropolitan Board of Works ought to make a contribution in respect of the expense of dealing with the case. The Secretary of State, after considering the report of the arbitrator, may according as to him seems just, decide that the case shall be dealt with either under the Artizans Dwellings Acts, 1868 to 1882, or under the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882, and the officer of health or other proper officer shall forthwith make the report or official representation necessary for proceedings in accordance with such decision.

The Artizans and Labourers Dwellings Act, 1868 (31 & 32 Vict. c. 130), belongs to the second Group of Acts relating to artizans dwellings.

The Artizans Dwellings Act, 1882 (45 & 46 Vict. c. 54) also belongs to the second Group of Acts.

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The Artizans and Labourers Dwelling Improvement Acts, 1875 to 1882, are under the third Group: 38 & 39 Vict. c. 36; 42 & 43 Vict. c. 63; and 45 & 46 Vict. c. 54, Part I.

The Artizans Dwellings Acts, 1868 to 1882, are under the second Group: 31 & 32 Vict. c. 130; 42 & 43 Vict. c. 64; 45 & 46 Vict. c. 54.

The report of the officer of health, &c., is made under 31 & 32 Vict. c. 130, s. 5, and the representation under 38 & 39 Vict. c. 36, s. 3.

(3) Where an arbitrator has under the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882, determined the amount of compensation, an appeal shall not lie to a jury from the decision of such arbitrator without leave of the High Court of Justice, but such court or any judge thereof at chambers may grant such leave upon application in a summary manner, and upon being satisfied that a failure of justice will take place if the leave is not granted.

Amendment as to Interest on Public Works Loans.

Rates of loan by Public Works Loan Commissioners.

6. Any loan advanced by the Public Works Loan Commissioners in pursuance of the Labouring Classes Lodging Houses Acts, 1851 to 1867, or of the Artizans Dwellings Acts, 1868 to 1882, or of the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882, the Artizans and Labourers Dwellings Improvement (Scotland) Act, 1875, and any Acts amending the same, or of any of such Acts, or for labourers dwellings in pursuance of the Public Works Loans Act, 1875, shall bear such rate of interest, not less than three pounds two shillings and sixpence per cent., as the Commissioners of Her Majesty's Treasury may from time to time authorise as being in their opinion sufficient to enable such loans to be made without loss to the Exchequer.

Provided that this section shall cease to be of effect after the thirty-first day of December one thousand eight hundred and eighty-eight.

Loans are advanced under the Labouring Classes Lodging Houses Acts under 29 Vict. c. 28, s. 4; under the Artizans Dwellings Acts pursuant to 31 & 32 Vict. c. 130 and 42 & 43 Vict. c. 64, s. 22; under the Artizans and Labourers Dwellings Improvement Acts pursuant to 38 & 39 Vict. c. 36, s. 22; and under the Public Works Loans Act, 1875, 38 & 39 Vict. c. 89, s. 9.

The above section is continued until the 31st December, 1891, by 51 & 52 Vict. c. 39, s. 3.

Amendment of General Sanitary Law, &c.

General duty of local authority to

7. It shall be the duty of every local authority entrusted with the execution of laws relating to public health and local government to put in force from time to time as occasion may arise,

the powers with which they are invested, so as to secure the proper sanitary condition of all premises within the area under the control of such authority. Section 7. enforce the law.

It is provided by section 299 of the Public Health Act, 1875, that if a local authority makes default in enforcing any of the provisions of that Act which it is their duty to enforce, the Local Government Board on complaint made may compel them to perform their duty. The present section is much wider in its operation. It applies to the execution not only of the Public Health Act, but to all laws relating to Public Health and Local Government. And as it makes such execution a statutory duty, the remedy of any person aggrieved will apparently be by *mandamus*. The only limitation of the section is that in the last clause, which seems to confine its operation to the execution of such laws as may be necessary to secure the proper sanitary condition of premises. An example of the operation of this section may be given by referring to the Public Health Act, 1875, s. 23. Under that section a local authority were originally bound to give notice to an owner to drain his house effectually ; on his making default they were empowered (not bound) to execute the necessary works themselves. Now, apparently, by reason of the provision in the text, they have no option, but must execute the necessary works.

8. Whereas under section ninety of the Public Health Act, 1875, the Local Government Board can declare that section to be in force within the district of a sanitary authority, and after the publication of notice of such declaration such authority is empowered to make bye-laws with respect to lodging-houses, and it is expedient to authorise every such authority to make such bye-laws without any declaration by the Local Government Board : Be it therefore enacted as follows :— Amendment of 38 & 39 Vict. c. 55, s. 90.

Every sanitary authority shall have power to make bye-laws for the matters specified in section ninety of the Public Health Act, 1875.

Section 90 of the Public Health Act, enabled the Local Government Board to empower a local authority to make bye-laws as to houses let in lodgings, *i.e.*, houses other than common lodging-houses. The powers given by that section may now be exercised by any local authority without the intervention of the Local Government Board.

9.—(1) A tent, van, shed, or similar structure used for human habitation, which is in such a state as to be a nuisance or injurious to health, or which is so overcrowded as to be injurious to the health of the inmates whether or not members of the same family, shall be deemed to be a nuisance within the meaning of section ninety-one of the Public Health Act, 1875 ; and the provisions of that Act shall apply accordingly. Tents and vans used for human habitation.

It is not necessary that a nuisance, in order to be within this section should *also* be injurious to health. See the case of *The Bishop Auckland Local Board* v. *The Bishop Auckland Iron Company*, 10 Q. B. D. 138 ; 52 L. J. M. C. 38 ; 48 L. T. (N.S.) 223 ; 31 W. R. 288 ; 47 J. P. 389.

This application of the provisions of the Public Health Act, 1875, is one of the most useful provisions of the Act. It enables local authorities to control a class of persons hitherto incapable of being reached through the sanitary laws. The effect of the sub-section is as follows :—It is now

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the duty of the local authority to inspect the district for the detection of the nuisances to which the section relates (Public Health Act, 1875, s. 92). Information of a nuisance under the sub-section may be given by any person aggrieved, or by two inhabitant householders, by an officer of the local authority, by the relieving officer, by any constable or relief officer (section 93). The local authority must then serve a notice for the abatement of the nuisance on the occupier of the tent, van, &c., for there will rarely be an owner distinct from the occupier (section 94). On non-compliance with the notice complaint may be made to a justice (section 95), and an order may be made by a court of summary jurisdiction (section 96). It may be doubted whether a tent, van, &c., is a house or building within (section 97).

(2) A sanitary authority may make bye-laws for promoting cleanliness in, and the habitable condition of tents, vans, sheds, and similar structures used for human habitation, and for preventing the spread of infectious disease by the persons inhabiting the same, and generally for the prevention of nuisances in connexion with the same.

The making, authentication, &c., of the bye-laws is regulated by sections 182—187 of the Public Health Act, 1875.

(3) Where any person duly authorised by a sanitary authority or by a justice of the peace has reasonable cause to suppose either that there is any contravention of the provisions of this Act or any bye-law made under this Act in any tent, van, shed, or similar structure used for human habitation, or that there is in any such tent, van, shed, or structure any person suffering from a dangerous infectious disorder, he may, on producing (if demanded) either a copy of his authorisation purporting to be certified by the clerk or a member of the sanitary authority or some other sufficient evidence of his being authorised as aforesaid, enter by day such tent, van, shed, or structure, and examine the same and every part thereof in order to ascertain whether in such tent, van, shed, or structure there is any contravention of any such bye-law or a person suffering from a dangerous infectious disorder.

Sanitary authorities may give a general authority to their officers or a special authority to any other person. A justice may also give a special authority; probably he will do so on an application similar to an information.

All infectious diseases are not necessarily dangerous. The text refers to such diseases as small pox and the like.

If the authority is given by a justice it should be in writing and the original should be produced.

Entry by day means entry between the hours of six in the morning and nine in the evening. (See sub-section 4.)

(4) For the purposes of this section "day" means the period between six o'clock in the morning and the succeeding nine o'clock in the evening.

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(5) If such person is obstructed in the performance of his duty under this section, the person so obstructing shall be liable, on summary conviction, to a fine not exceeding forty shillings.

(6) This section shall apply to the metropolis, with the substitution of section nineteen of the Sanitary Act, 1866, for section ninety-one of the Public Health Act, 1875, and of nuisance authority, under the Nuisance Removal Acts, for sanitary authority. 29 & 30 Vict. c. 90.

(7) Nothing in this section shall apply to any tent, van, shed, or structure erected or used by any portion of Her Majesty's military or naval forces.

Application of certain provisions as to bye-laws and local inquiries.

10.—(1) With respect to bye-laws authorised by this Act or by the Labouring Classes Lodging Houses Act, 1851, to be made—

(*a*) Sections two hundred and two and two hundred and three of the Metropolis Management Act, 1855, where such bye-laws are made by the Metropolitan Board of Works, or any nuisance authority in the metropolis; and

(*b*) The provisions of the Public Health Act, 1875, relating to bye-laws, where such bye-laws are made by a sanitary authority,

shall apply to such bye-laws, and a fine or penalty under any such bye-law may be recovered on summary conviction.

(2) For the purposes of the execution of their duties under this Act the Local Government Board may hold such local inquiries as the Board see fit, and sections two hundred and ninety-three to two hundred and ninety-six, both inclusive, of the Public Health Act, 1875, relating to inquiries by such Board shall apply.

These provisions are contained in sections 182—187 of the Public Health Act, 1875. It is doubtful whether this penalty is recoverable under that Act or under the general provisions of the Summary Jurisdiction Acts.

The sections referred to in the text give the Local Government Board power to direct enquiries, to make orders as to costs, and give extensive powers to the inspectors holding such enquiries as to the production of documents, the examination of witnesses, &c.

Amendment of 45 & 46 Vict. c. 38 as regards erection of

11.—(1) The Settled Land Act, 1882, shall be amended as follows:—

(*a*) Any sale, exchange, or lease of land in pursuance of the said Act, when made for the purpose of the erection

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buildings for working classes.

on such land of dwellings for the working classes, may be made at such price, or for such consideration, or for such rent, as having regard to the said purpose, and to all the circumstances of the case, is the best that can be reasonably obtained, notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for another purpose.

(*b*) The improvements on which capital money may be expended, enumerated in section twenty-five of the said Act, and referred to in section thirty of the said Act, shall, in addition to cottages for labourers, farm servants, and artizans whether employed on the settled land or not, include any dwellings available for the working classes, the building of which in the opinion of the Court is not injurious to the estate.

The Settled Land Act, 1882, s. 3, enabled a tenant for life to sell or exchange any settled land. Every sale, however, had to be made at the best price that could be reasonably obtained and every exchange for the best consideration in land, or in land and money that could reasonably be obtained (section 4). By section 6 a tenant for life was empowered to make building leases for ninety-nine years, mining leases for sixty years, and other leases for twenty-one years. By section 7, such leases were to reserve the best rent that could reasonably be obtained, regard being had to any fine taken and to any money laid out for the benefit of the settled land, and generally to the circumstances of the case. The text relaxes these requirements in the case of sales, exchanges and leases by tenants for life, when the lands which are the subject of such sale, &c., are sold, exchanged, or leased for the purposes of the Act. In such cases it is not the best price or rent which could be obtained, but the best price or rent which could be obtained having regard to the object of the sale, &c., which must be secured by the tenant for life.

The Settled Land Act, 1882, s. 25, contains a long list of improvements authorised to be made by the Act, and to be paid out of the capital money arising out of the sale of land under the Act, &c. Of these improvements No. X. consists of "cottages for labourers, farm servants, and artizans employed on the settled land or not." This provision is now extended as stated in the text.

(2) Any body corporate holding land may sell, exchange, or lease such land for the purpose of the erection of dwellings for the working classes at such price, or for such consideration, or for such rent as having regard to the said purpose and to all the circumstances of the case is the best that can reasonably be obtained, notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for another purpose.

This will apply not only to a municipal corporation but also to corporate bodies capable of holding lands, such as certain colleges, hospitals, &c. Without the provision in the text these bodies holding as they do land upon trust, could not have sold except at the best market price.

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Condition to be implied on letting houses for the working classes.

12. In any contract made after the passing of this Act for letting for habitation by persons of the working classes a house or part of a house, there shall be implied a condition that the house is at the commencement of the holding in all respects reasonably fit for human habitation. In this section the expression "letting for habitation by persons of the working classes" means the letting for habitation of a house or part of a house at a rent not exceeding in England the sum named as the limit for the composition of rates by section three of the Poor Rate Assessment or Collection Act, 1869, and in Scotland or Ireland four pounds.

32 & 33 Vict. c. 41.

The general rule of law is that there is no implied covenant by the lessor of a house that it is reasonably fit for habitation: *Hart* v. *Windsor*, 12 M. & W. 68; *Sutton* v. *Temple*, *id.* 52; *Keates* v. *Earl Cadogan*, 10 C. B. 591; *Murray Bartram* v. *Aldous*, Times Reports, vol. 2, p. 37. But this rule does not apply to a furnished house. It is an implied condition in the letting of a furnished house that it is reasonably fit for habitation; if it be not, *e.g.*, if it is greatly infested with bugs, the tenant may quit without notice, and an action will not lie for use and occupation: *Smith* v. *Marrable*, 11 M. & W. 5; *Campbell* v. *Lord Wenlock*, 4 F. & F. 717. The defendant agreed to rent the plaintiff's furnished house for a term of three months from the 7th May, but having at the beginning of the intended tenancy discovered that the house was, owing to defective drainage, unfit for habitation, refused to occupy. The plaintiff repaired the drains, and on the 26th May, tendered the house in a wholesome condition to the defendant, who refused to occupy or pay any rent. The plaintiff having sued for the rent and for use and occupation, it was held that the state of the house at the beginning of the intended tenancy entitled the defendant to rescind the contract, and that he was not liable for the rent or for use and occupation: *Wilson* v. *Finch Hatton*, 2 Ex. D. 336; 46 L. J. Ex. 489; 36 L. T. (N.S.) 473; 25 W. R. 537; 41 J. P. 583. And see on the same point: *Harrison* v. *Malet*, 3 T. L. R. 58; *Bunn* v. *Harrison*, *ib.* 146; *Charsley* v. *Jones*, 53 J. P. 280; 5 T. L. R. 412. One who has agreed to take a furnished house is not bound to fulfil his contract if the house be infected with measles at the date fixed for the commencement of the tenancy. If in such a case the lessor sue for rent, he must show, to entitle him to succeed, that the house was in fact in a fit state for human habitation at the date fixed for the commencement of the term, notwithstanding a previous intimation by the tenant of his intention to repudiate the contract: *Bird* v. *Lord Greville*, 1 C. & E. 317 (per FIELD, J.); *Dawson* v. *Clementson*, 1 T. L. R. 295; *Harrison* v. *Malet*, 3 T. L. R. 58. But a tenant is not justified in determining a tenancy if a furnished house because during the term, a portion of the plastering of the ceilings (which were cracked and fractured at the commencement of the tenancy) fell in one room, and the plastering of the ceilings in other rooms was unsound and liable to fall. On a letting of a furnished house, the implied term that it shall be fit for human habitation, only applies to the condition of the premises at the commencement of the tenancy: *Maclean* v. *Currie*, 2 T. L. R. 361 (per STEPHEN, J.).

It will be seen that the provision in the text creates an implied warranty similar to that now existing in the case of furnished houses. It has been held that a tenant has, under this section, a right to sue his landlord for damages for injuries caused by the premises not being reasonably fit for human habitation owing to any defective state of repair: *Walker* v. *Hobbs*, 23 Q. B. D. 458; 38 W. R. 63.

When the above section was first introduced into Parliament it was general, and applied to all leases or lettings of dwelling-houses, irrespective of value. As it now stands, however, it applies only to houses or parts of

Section 12. houses let at the rents mentioned in 32 & 33 Vict. c. 41, s. 3, viz., in the metropolis, at a rent not exceeding 20*l.*, in Liverpool 13*l.*, in Manchester and Birmingham 10*l.*, and elsewhere 8*l.* This limitation seems to have been lost sight of in *Walker* v. *Hobbs*, *supra*.

NOTE.

Supplemental.

Definitions.

13. In this Act, unless the context otherwise requires—

The expression "sanitary district" means the district of a sanitary authority:

The expression "sanitary authority" means an urban sanitary authority or a rural sanitary authority:

The expression "urban sanitary authority" and "rural sanitary authority" and "contributory place" have respectively the same meanings as in the Public Health Act, 1875:

38 & 39 Vict. c. 55.

The expression "metropolis" means the parishes and places within which the Metropolitan Board of Works have for the time being power to levy the consolidated rate:

The expression "cottage" may include a garden of not more than half an acre; provided that the estimated annual value of such garden shall not exceed three pounds.

The effect of the definition of a cottage has been already stated. See the note to section 2 sub-section (1).

Construction of Act.

14. This Act, so far as it amends the Labouring Classes Lodging Houses Act, 1851, the Labouring Classes Dwelling Houses Act, 1866, and the Labouring Classes Dwelling Houses Act, 1867, (which Acts are in this Act referred to as the Labouring Classes Lodging Houses Acts, 1851 to 1867,) shall be construed as one with those Acts, and together with those Acts may be cited as the Labouring Classes Lodging Houses Acts, 1851 to 1885.

14 & 15 Vict. c. 34.
29 & 30 Vict. c. 28.
30 & 31 Vict. c. 28.

This Act, so far as it amends the Artizans Dwellings Acts, 1868 to 1882, shall be construed as one with those Acts, and together with those Acts may be cited as the Artizans Dwellings Acts, 1868 to 1885.

31 & 32 Vict. c. 130.
42 & 43 Vict. c. 64.
45 & 46 Vict. c. 54, Part II.

This Act, so far as it amends the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882, shall be construed as one with those Acts, and together with those Acts may be cited as the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1885.

38 & 39 Vict. c. 36.
42 & 43 Vict. c. 63.
45 & 46 Vict. c. 54, Part I.

See the note to section 1 sub-section (1), *ante*, p. 402.

Sections 15 and 16 relate to Scotland and Ireland and are therefore omitted.

* * * * *

17. This Act may be cited as the Housing of the Working Classes Act, 1885. Section 17. Short title.

18. The Acts mentioned in the schedule to this Act are hereby repealed to the extent in the third column of that schedule specified, without prejudice to anything done or suffered thereunder, or to any proceeding pending at the date of the passing of this Act. Repeal.

SCHEDULE.

ENACTMENTS REPEALED.

A description or citation of a portion of an Act in this Schedule is inclusive of the word, section, or other part first and last mentioned or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Session and Chapter.	Short Title.	Extent of Repeal.
Labouring Classes Lodging Houses Acts.		
14 & 15 Vict. c. 34 [1851].	The Labouring Classes Lodging Houses Act, 1851.	Section two. Section three, except from "words importing the masculine" to the end of the section. Sections five to thirty-four. So much of sections thirty-five to forty-three as relates to parishes or to the Commissioners for a parish, or to the vestry, guardians, churchwardens, or overseers of a parish. Section thirty-seven. Section forty. Section forty-one. Section forty-three from "and the surplus" to end of section. Section forty-four. In section forty-five from "and as to any parish" to the end of the section. In section forty-six the words "and Commissioners" wherever they occur, and from "provided always" to the end of the section. So much of sections forty-eight, fifty-one, and fifty-two, and of the schedule, as relates to parishes or to the Commissioners for a parish.

Schedule.

SCHEDULE—*continued.*

Session and Chapter.	Short Title.	Extent of Repeal.
29 & 30 Vict. c. 28 [1866].	The Labouring Classes Dwelling Houses Act, 1866.	So much of sections four, six and seven, as authorises any council, board, or other sanitary authority to borrow, or as relates to Commissioners authorised to carry into execution the Labouring Classes Lodging Houses Act, 1851.
29 & 30 Vict. c. 44	The Labouring Classes Lodging Houses and Dwellings Act (Ireland), 1866.	So much of sections three to seven, of sections eleven to thirteen, and of section twenty-three as relates to urban sanitary authorities and urban sanitary districts.
46 & 47 Vict. c. 60	The Labourers (Ireland) Act, 1883.	Section twenty-five. Section twenty.
	Artizans Dwellings Acts.	
42 & 43 Vict. c. 64 [1879].	The Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879.	Sections five and six.
	Artizans and Labourers Dwellings Improvement Acts.	
38 & 39 Vict. c. 36 [1875].	The Artizans and Labourers Dwellings Improvement Act, 1875.	So much of section two as relates to the population of urban sanitary districts.
38 & 39 Vict. c. 49 [1875].	The Artizans and Labourers Dwellings Improvement (Scotland) Act.	Section two.
45 & 46 Vict. c. 54 [1882].	The Artizans Dwellings Act, 1882.	Section eleven.

Preamble.

THE MARRIAGES VALIDITY ACT, 1886.

49 VICT. CHAP. 3.

An Act to remove Doubts as to the Validity of certain Marriages. [29th March, 1886.]

WHEREAS doubts have been entertained as to the validity of certain marriages solemnized in England, one of the parties to such marriages being resident in Scotland:

BE it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Banns, where one party resident in Scotland.

1. No marriage solemnized, or to be hereafter solemnized, in any church in England, after publication of banns in such church, shall be or be deemed to have been, invalid by reason only that one of the parties to such marriage was at the time of such publication resident in Scotland, and that banns may have been published or proclaimed in any church of the parish or place in which such party was resident, according to the law or custom prevailing in Scotland, and not in the manner required for the publication of banns in England.

The proclamation of banns in Scotland is proved by certificate under the hand of the session clerk of the parish, which has the same effect as the certificate of an English superintendent registrar: 19 & 20 Vict. c. 119, s. 8. See *Hammick's Marriage Law of England*, p. 227.

Short title.

2. This Act may be cited as the Marriages Validity Act, 1886.

Preamble.

THE MARRIAGE ACT, 1886.

49 VICT. CHAP. 14.

An Act for extending the Hours within which Marriages may be lawfully solemnized. [10th May, 1886.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Hours for solemnization of marriages.

1.—(1) From and after the passing of this Act it shall be lawful to solemnize a marriage at any time between the hours of eight in the forenoon and three in the afternoon.

(2) Section twenty-one of the Act of the fourth year of King George the Fourth, chapter seventy-six, for amending the laws respecting the solemnization of marriages in England, which provides for the punishment of persons solemnizing matrimony during unlawful hours, shall have effect as if the words "eight in the forenoon and three in the afternoon" were substituted therein for the words "eight and twelve o'clock in the forenoon," and no person shall be subject to any proceedings in any court, ecclesiastical or temporal, for solemnizing matrimony between the aforesaid hours of eight in the forenoon and three in the afternoon.

The 4 Geo. 4, c. 76, s. 21, provided that no person should solemnize matrimony at any other time than between the hours of eight and twelve in the forenoon unless by special license, and that any person offending against that enactment should be guilty of felony. The provision in the text extends the hours so that matrimony may now be lawfully solemnized between the hours of eight in the forenoon and three in the afternoon without special license.

Extent of Act.

2. This Act shall not extend to Scotland or Ireland.

Short title.

3. This Act may be cited as the Marriage Act, 1886.

Preamble.

THE DROWNED PERSONS (DISCOVERY AND INTERMENT) ACT, 1886.

49 VICT. CHAP. 20.

An Act to amend the Law in respect to the Discovery and Interment of Persons drowned. [4th June, 1886.]

WHEREAS an Act was passed in the forty-eighth year of the reign of King George the Third, intituled "An Act for providing suitable interment in churchyards or parochial burying grounds in England for such dead human bodies as may be cast on shore from the sea in cases of wreck or otherwise" (in this Act called "the principal Act"), and it is expedient to amend the same and make it applicable to the discovery and interment of dead human bodies cast on shore from any tidal or navigable waters, or found in any such tidal or navigable waters and brought on shore:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Extension of provisions of principal Act.

1. The provisions of the principal Act shall be deemed to extend and apply not only to dead human bodies found in or cast on shore from the sea by wreck or otherwise, but also to any dead human body or dead human bodies found in or cast on shore from any tidal or navigable waters, and to all such body or bodies found floating or sunken in any such waters and brought on to the shore or bank thereof: Provided, that notice of the finding of any such body or bodies shall be deemed to be duly given in pursuance of the principal Act if given to a police constable within the time specified in that Act, and such constable shall forthwith communicate the same to the parish officers mentioned in the said Act.

The principal Act, 48 Geo. 3, c. 75, s. 1, imposes the duty of burying any body cast ashore from the sea upon the churchwardens and overseers of the parish, and in any extra-parochial place where there is no churchwarden or overseers, then upon the constable or head-borough of such place. The words of this section impose such duty upon the official names in the case of bodies thrown up from the sea, and it was held that the tidal part of a river did not come within the provisions of the Act (*Woolwich Churchwardens* v. *Robertson*, 6 Q. B. D. 654; 50 L. J. M. C. 87; 44 L. T. 747; 29 W. R. 892; 45 J. P. 766. The result of this decision

Section 1.

NOTE.

was the passing of the above Act (49 Vict. c. 20), extending the provisions of the principal Act to bodies in or cast on shore from any tidal or navigable waters and to all such bodies found floating or sunken in any such waters and brought to the shore or bank thereof.

The second section provides that the minister, parish clerk, and sexton of such respective parishes shall perform their respective duties in the like manner as is customary at funerals and shall receive such compensation as is customary for burials made at the expense of such parishes.

The third section provides that any person who finds such body and gives notice to some one of the churchwardens or overseers, or in the case of any extra-parochial place to the head borough or constable for the time being, shall receive a reward of 5*s*. No more than this sum is to be paid even though there should be more than one body. And by section 4 it is provided that if any person shall find such body or bodies and neglect to give such notice, such person shall forfeit for every such offence the sum of 5*l*. By the provision in the text, notice of the finding of any body or bodies shall be deemed to be duly given in pursuance of the principal Act if given to a police constable within the specified time, and the duty of informing the parish authorities devolves upon the constable.

Section 5 provides that all necessary expenses are to be paid by the churchwardens or overseers of the parish or the head borough or constable of any extra-parochial place. By section 6 it is provided that for the reimbursing him or them it shall be lawful for one justice of the peace for the county or place within which such body or bodies shall have been so removed and buried, by any writing under his hand, to direct the treasurer of such county to pay such sums of money for expenses (after the same shall have been verified on oath) as shall to the said justice be deemed just and reasonable; and such treasurer shall be allowed the same in his accounts.

Section 7 provides that if any of the parish officers neglect to remove and inter dead human bodies so found or cast on shore, that they shall be liable to a penalty of 5*l*.

Section 8 directs that such penalties when recovered shall be paid to the informer or informers.

Section 10 gives to any aggrieved person a right of appeal to quarter sessions. The penalties are by section 12 to be paid by persons incurring the same and not by the parish.

Section 13 provides for the payment by lords of manors the same fee as was customary before the passing of the Act, on interring dead human bodies.

THE IDIOTS ACT, 1886.

49 & 50 VICT. CHAP. 25.

An Act for giving facilities for the care, education, and training of Idiots and Imbeciles. [25th June, 1886.]

WHEREAS it is expedient to make provision for the admission into hospitals, institutions, and licensed houses of idiots and imbeciles, and for their care, education, and training therein:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Idiots Act, 1886.

Section 2.

2. This Act shall not extend to Scotland or Ireland. Extent of Act.

3. This Act shall commence from and immediately after the thirty-first day of December, one thousand eight hundred and eighty-six. Commencement.

Hospitals, institutions, and licensed houses for idiots and imbeciles.

4. An idiot or imbecile from birth or from an early age may, if under age, be placed by his parents or guardians or by any person undertaking and performing towards him the duty of a parent or guardian, and may lawfully be received into, and until of full age detained in, any hospital, institution, or licensed house registered under this Act for the care, education, and training of idiots or imbeciles upon the certificate in writing of a duly qualified medical practitioner in the Form One in the Schedule that the person to whom such certificate relates is an idiot or imbecile, capable of receiving benefit from such hospital, institution, or licensed house, accompanied by a statement in the Form Two in the Schedule signed by the parent or guardian of the idiot or imbecile, or the person undertaking or performing towards him the duty of a parent or guardian.

There is no definition in the Act of the terms "idiot" and "imbecile," but neither term includes lunatics: see section 17, *post*.

As to the powers of a local authority to provide separate asylums for idiots, see 53 Vict. c. 5, s. 241.

As to the registration of hospitals, see sections 7 and 8, *post*.

Retention and admission of idiots and imbeciles after full age.

5. Any idiot or imbecile who has while under age been received under this Act into any hospital, institution, or licensed house registered under this Act may, with the consent in writing of the Commissioners in Lunacy, be retained therein after he is of full age, and an idiot or imbecile from birth or from an early age may be received into any hospital, institution, or licensed house registered under this Act after he is of full age upon the certificate in writing of a duly qualified medical practitioner in the Form One in the Schedule, accompanied by a statement in the Form Two in the Schedule signed by the parent or guardian of the idiot or imbecile, or the person undertaking or performing towards him the duty of a parent or guardian.

Order of discharge by Commissioners in Lunacy.

6. The Commissioners may at any time, by order, direct any person of full age retained in any hospital, institution, or licensed house registered under this Act to be discharged therefrom, and such order shall specify the reason or reasons for such discharge and the date thereof.

Schedule 7.

Registration of hospitals, institutions, and licensed houses under this Act.

7. The managing committee or the principal officer of every hospital, institution, or licensed house in which idiots or imbeciles are intended to be received under this Act shall apply to the Commissioners to have the hospital, institution, or licensed house registered in the office of the Commissioners, and the Commissioners, if satisfied upon inquiry that the hospital, institution, or licensed house is a proper one to be registered, shall issue a certificate of registration accordingly; and no idiot or imbecile shall be received into any hospital, institution, or licensed house, under this Act, until the same hospital, institution, or licensed house has been duly registered.

Provision for existing hospitals, institutions, and licensed houses for idiots or imbeciles.

8. Any hospital, institution, or licensed house which at the passing of this Act is devoted exclusively to the care, education, and training of idiots or imbeciles may be registered under this Act, and all idiots and imbeciles, lawfully retained therein at the passing of this Act may continue to be so retained without further certification.

Notice of reception to be sent to Commissioners in Lunacy.

9. When any idiot or imbecile is first received into a hospital, institution, or licensed house registered under this Act the superintendent or principal officer thereof shall, within fourteen days, certify in writing under his hand to the Commissioners in the Form Three in the Schedule the fact and time of his reception, specifying his name and age and the names and addresses of the persons placing him in such hospital, institution, or licensed house, and that he is alleged to be capable of deriving benefit from the treatment to be received therein.

Notice of death or discharge.

10. When any idiot or imbecile dies in any hospital, institution, or licensed house registered under this Act, or is discharged therefrom, the superintendent or principal officer thereof shall forthwith notify in writing such death or discharge to the Commissioners.

Certain provisions of Lunacy Acts not to apply to this Act.

11. The provisions of any Act relating to the registration and regulation of hospitals, asylums, and licensed houses for the reception of lunatics, to the orders, certificates, or reports necessary for the reception, detention, or treatment of lunatics, and to the care, treatment, and visitation of lunatics, and the books to be kept and the reports to be made concerning lunatics respectively, shall not apply to any hospital, institution, or licensed house registered under this Act, or to any idiot or

imbecile received or to be received therein under the provisions of this Act. Section 11.

The provisions of 53 Vict. c. 5, do not apply to licensed houses used solely for the reception of idiots and imbeciles: see section 340 of that Act, *post*.

12. The Commissioners shall at least once in every twelve months visit and inspect every hospital, institution, and licensed house registered under this Act, and all the children and other persons under treatment therein. Inspection by Commissioners.

13. A medical journal shall be kept in every hospital, institution, and licensed house registered under this Act, in such form as the Commissioners may from time to time direct. Medical journal to be kept.

14. In the case of any hospital, institution, or licensed house registered under this Act, the Commissioners may by order in writing direct that a duly qualified medical practitioner shall reside therein. Residence of medical practitioner.

15. Nothing in this Act shall operate to deprive the guardians of the poor of any union of the power of sending pauper idiots or imbeciles to hospitals, institutions, and licensed houses registered under this Act, or from receiving in respect of such idiots or imbeciles such sums of money as shall from time to time be granted by Parliament towards the maintenance and care of pauper lunatics, as if the same idiots and imbeciles were pauper lunatics. Grants of money to guardians of the poor.

By the 31 & 32 Vict. c. 122, s. 13, the guardians may, with the consent of the Local Government Board, send an idiotic pauper to an asylum or establishment for the reception and relief of idiots maintained at the charge of the county rate or by public subscription, and they may, with the like consent, send any idiotic, imbecile, or insane pauper who may lawfully be detained in a workhouse (see 53 Vict. c. 5, s. 24, *post*) to the workhouse of any other union or parish with the consent of the guardians thereof, and pay the cost of the maintenance, clothing, and lodging of such pauper in the asylum, establishment, or workhouse, as well as the cost of his conveyance thereto or his removal therefrom and the expenses of his burial, when necessary.

No sums of money are now granted by Parliament, as stated in the section. In substitution for such grants payments are now made by the county council under section 24 of the Local Government Act, 1888, *post*.

16. The committee of management of any hospital, institution, or licensed house registered under this Act may grant to any officer or servant who is incapacitated by confirmed illness, age, or infirmity, or who has been an officer or servant in the hospital, institution, or house for not less than fifteen years and is not Power to grant superannuation allowance.

Section 16. less than fifty years old, such superannuation allowance, not exceeding two-thirds of the salary, with the value of the lodgings, rations, or other allowances enjoyed by the superannuated person, as the committee think proper.

Definition.

17. In this Act, if not inconsistent with the context,—

Commissioners.

"Commissioners" means the Commissioners in Lunacy for the time being.

Idiots or imbeciles.

"Idiots" or "imbeciles" do not include lunatics.

Lunatic.

"Lunatic" does not mean or include idiot or imbecile.

Hospital and institution.

"Hospital" and "institution" mean any hospital or institution or part of a hospital or institution (not being an asylum for lunatics) wherein idiots and imbeciles are received and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients.

Licensed house.

"Licensed house" means any house licensed by the Commissioners in Lunacy, or by the justices of any county or borough, for the reception, care, education, and training of idiots and imbeciles.

Licences are granted in and near the metropolis by the Commissioners; elsewhere by county or borough justices in quarter sessions: 53 Vict. c. 5, s. 208.

Schedule.

THE SCHEDULE.

FORM 1.

Form of Medical Certificate.

I, the undersigned *A. B.*, a person registered under the Medical Act, 1858, and in the actual practice of the medical profession, certify that I have carefully examined *C. D.*, an infant [*or* of full age], now residing at , and that I am of opinion that the said *C. D.* is an idiot [*or* has been imbecile from birth, *or* for years past, *or* from an early age], and is capable of receiving benefit from [the institution (describing it)], registered under the Idiots Act, 1886.

(Signed)

Dated (full postal address).

FORM 2.

Form of Statement to accompany Medical Certificate.

[If any particulars in this statement be not known, the fact to be so stated.]

Name of patient, with Christain name at length.
Sex and age.
When and where previously under care and treatment.
In any asylum or institution.
Whether subject to epilepsy.
Whether dangerous to others.

I certify that to the best of my knowledge the above particulars are correctly stated.

(Signed) Name and full postal address.
[To be signed by the parent or guardian of the idiot or imbecile, or the person undertaking and performing towards him the duty of a parent or guardian.]

FORM 3.

Form of Certificate of Reception.

I hereby certify that , aged , was admitted into on the day of , 18 , on the request of , of , and , of , and that he [*or* she] is alleged to be capable of deriving benefit from the treatment he [*or* she] will receive herein.

A. B.
Superintendent *or*
Principal Officer.

Dated this day of , 18 .
To the Commissioners in Lunacy.

Preamble.

CONTAGIOUS DISEASES (ANIMALS) ACT, 1886.

49 & 50 VICT. CHAP. 32.

An Act to amend the Contagious Diseases (Animals) Act, 1878.
[25th June, 1886.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title, construction, and citation of Acts.
41 & 42 Vict. c. 74.

1.—(1) This Act may be cited as the Contagious Diseases (Animals) Act, 1886, and, so far as is consistent with the tenor thereof, shall be construed as one with the Contagious Diseases (Animals) Act, 1878 (in this Act referred to as "the principal Act"), and shall apply to Scotland and Ireland with the modifications and subject to the provisions contained in Parts III. and IV. respectively of the principal Act.

47 & 48 Vict. c. 13.
47 & 48 Vict. c. 47.

(2) The Contagious Diseases (Animals) Acts, 1878 and 1884, the Contagious Diseases (Animals) Transfer of Parts of Districts Act, 1884, and this Act, may be together cited as the Contagious Diseases (Animals) Acts, 1878 to 1886.

This Act transfers to the Local Government Board and the sanitary authorities, urban and rural, throughout the country the powers and duties formerly exercised by the Privy Council and the local authorities under the Contagious Diseases (Animals) Act, 1878, respectively, with reference to dairies, cowsheds, and milkshops.

* * * * *

Transfer to Local Government Board of powers of Privy Council under s. 34.

9.—(1) The powers vested in the Privy Council of making general or special orders under section thirty-four of the principal Act, for the purposes in that section mentioned, are hereby transferred to and shall henceforth be exerciseable by the Local Government Board; every such order shall have effect as if enacted in this section, and shall be published in such manner as the Local Government Board may direct, and the said Board may from time to time alter or revoke any such order.

The Contagious Diseases (Animals) Act, 1878, 41 & 42 Vict. c. 74, s. 34, is as follows, substituting the Local Government Board for the Privy Council :—

The Local Government Board may from time to time make such general or special Orders as they think fit, subject and according to the provisions of this Act, for the following purposes, or any of them :—

(1) For the registration with the local authority of all persons carrying on the trade of cowkeepers, dairymen, or purveyors of milk.

Section 9.
NOTE.

(2) For the inspection of cattle in dairies, and for prescribing and regulating the lighting, ventilation, cleansing, drainage, and water supply of dairies and cowsheds in the occupation of persons following the trade of cowkeepers or dairymen.

(3) For securing the cleanliness of milkstores, milkshops, and of milk-vessels used for containing milk for sale by such persons.

(4) For prescribing precautions to be taken for protecting milk against infection or contamination.

(5) For authorising a local authority to make regulations for the purposes aforesaid, or any of them, subject to such conditions, if any, as the Local Government Board may prescribe.

Under the above section the Privy Council issued the Dairies, Cowsheds, and Milkshops Order of 1885.

(2) For the purposes of the said section and this section, and of any order in force thereunder, the expression local authority, unless the context otherwise requires, in the metropolis has the same meanings as in the principal Act, and elsewhere has the same meanings as in the Public Health Act, 1875.

38 & 39 Vict. c. 55.

The only Orders in force are the Dairies, Cowsheds, and Milkshops Orders of 1885 and 1886, *post*. The phrase "local authority" will in these Orders have the meaning here assigned to it.

By the 41 & 42 Vict. c. 74, s. 7, "metropolis" has the same meaning as in the Metropolis Management Act, 1855, 18 & 19 Vict. c. 120. In the city of London and the liberties thereof the corporation of London are the local authority; elsewhere in the metropolis the Metropolitan Board of Works are the local authority, but the powers and duties of the Metropolitan Board of Works are now transferred to the London County Council by the Local Government Act, 1888, s. 40 (8).

Outside the metropolis the local authority will be the urban and rural sanitary authorities of the several sanitary districts, urban and rural, in England and Wales. The Local Government Act, 1888, s. 39, sub-sect. (2), provides that nothing in that section shall transfer to the county council any powers, duties, or liabilities under section 34 of the Contagious Diseases (Animals) Act, 1878, as amended by section 9 of the Contagious Diseases (Animals) Act, 1886.

(3) Any expenses incurred by a local authority in the metropolis in pursuance of section thirty-four of the principal Act, as amended by this section, shall be defrayed out of the local rate applicable to their expenses under the principal Act; and any expenses so incurred by any other local authority shall be defrayed as if they were incurred in the execution of the Public Health Act, 1875, and in the case of a rural sanitary authority shall be deemed to be general expenses.

By the 41 & 42 Vict. c. 74, s. 9, and sched. II., the local rate in the city of London and the liberties thereof is the consolidated rate; in the rest of the metropolis the county rate, which superseded the metropolitan consolidated rate by virtue of the Local Government Act, 1888, s. 40 (9), and s. 68 (6).

The expenses incurred by an urban authority will be paid out of the general district fund. The expenses of a rural authority, as here stated, will be general expenses; in other words, they will fall on the district as a whole, and not upon special parts of it.

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(4) The local authority and their officers, for the purpose of enforcing the said orders and any regulations made thereunder, shall have the same right to be admitted to any premises as the local authority, within the meaning of the Public Health Act, 1875, and their officers have, under section one hundred and two of that Act, for the purpose of examining as to the existence of any nuisance thereon; and if such admission is refused the like proceedings may be taken, with the like incidents and consequences as to orders for admission, penalties, costs, expenses, and otherwise as in the case of a refusal to admit to premises for any of the purposes of the said section one hundred and two, and as if the local authority mentioned in the said Act included a local authority in the metropolis as defined in this section.

Provided that nothing in this section shall authorise any person, except with the permission of the local authority under the principal Act, to enter any cowshed or other place in which an animal affected with any disease is kept, and which is situate in a place declared to be infected with such disease.

The officers of the local authority who will have most to do with the administration of this Act will be the medical officer of health and the inspector of nuisances, especially the latter. In some districts the duties may be considerable, and the officers in question may have a fair claim to additional remuneration. Power is not given for the appointment of an officer for the express purpose of carrying the Act and Order into execution, but as the local authorities may appoint as many officers as may be necessary for the purposes of the Public Health Act, 1875, they may avoid the difficulty by appointing officers under that Act, and assigning to such officers the new duties relating to dairies, cowsheds, and milkshops. It will be remembered that under section 190 of the Public Health Act, 1875, a rural authority may appoint more than one inspector of nuisances. The district may, if necessary, be divided for the purposes of the duties of several inspectors.

Section 102 of the Public Health Act, 1875, provides that the local authority or any of their officers shall be admitted into any premises (for the purpose of enforcing the said Orders and any regulations made thereunder) at any time between the hours of nine in the forenoon and six in the afternoon, or in the case of a nuisance arising in respect of any business, then at an hour when such business is in progress or is usually carried on.

If admission is refused the officer may give reasonable notice in writing of his intention to make complaint to a justice. This notice must be given to the person having custody of the premises. He may then make a complaint *upon oath* before a justice, and the justice may by order under his hand require the person having the custody of the premises to admit the local authority or their officer during the hours between 9 A.M. and 6 P.M., and if no person having custody of the premises can be found, the justice on oath made before him of that fact shall by order under his hand authorise the local authority or any of their officers to enter the premises during the hours aforesaid. The order remains in force until the work for which the entry was necessary has been done. Any person who refuses to obey the order is liable to a penalty not exceeding 5*l*.

The words at the end of the sub-section refer to places declared to be infected by Orders under the Contagious Diseases (Animals) Act, 1878.

Such places can only be entered with the permission of the local authority entrusted with the administration of that Act, *i.e.*, in counties, the county councils; and in boroughs having a population exceeding 10,000, the corporations or the committees appointed by such local authorities.

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(5) The like penalties for offences against orders or regulations made for the purposes of section thirty-four of the principal Act as amended by this section may be imposed by the Local Government Board or local authority making the same, and such offences may be prosecuted and penalties recovered in a summary manner, and subject to the like provisions, as if such orders or regulations were bye-laws of a local authority under the Public Health Act, 1875, and as if the local authority mentioned in that Act included a local authority in the metropolis as defined in this section.

By the Public Health Act, 1875, s. 183, a local authority may, by their bye-laws, impose on offenders against such bye-laws penalties not exceeding 5*l.* for each offence, and in case of a continuing offence a further penalty not exceeding 40*s.* for each day after written notice of the offence from the local authority. The Dairies, Cowsheds, and Milkshops Order of 1885 contained no provision as to penalties, and some provision of that kind was necessary if the Order was to be enforced like bye-laws under the Public Health Act, 1875. To amend this defect the Local Government Board issued a General Order on the 1st November, 1886, whereby a person guilty of an offence against the Order is to be liable to a penalty of 5*l.*, and a further penalty of 40*s.* for each day after written notice of the offence from the local authority. It is necessary to observe, however, that this Order does not in any way affect the regulations made by the local authority. These are to be enforced as bye-laws, and no penalty can be recovered in respect of breaches of them except such as may be imposed by the regulations themselves. It is, therefore, necessary in every case to make provisions for penalties for such breaches, and where the local authorities avail themselves of previous existing regulations these should be reissued with the addition of some such provisions as are here suggested.

(6) Whereas under the powers of the principal Act the Privy Council have made an Order known as the Dairies, Cowsheds, and Milkshops Order of 1885, and certain authorities have made regulations under that Order, or having effect in pursuance thereof; and it is expedient by reason of the foregoing provisions of this section to make provision respecting such order and regulations: Be it therefore enacted as follows:

(*a*) The Dairies, Cowsheds, and Milkshops Order of 1885, and any regulations thereunder, or having effect in pursuance thereof, made by any local authority under the principal Act, other than the local authority of a county, shall be deemed to have been made respectively by the Local Government Board and by a local authority under this section; and any such regulations made by the local authority of a county, within the

Section 9.

meaning of the principal Act, shall, so far as they extend to the district of any local authority as defined in this section, be deemed to have been made by such local authority.

(*b*) So much of any register kept by the local authority of any county under the said order as relates to the district of any local authority as defined in this section, or a copy thereof, shall, as soon as may be after the passing of this Act, be delivered to the local authority by the local authority of the county.

Existing regulations made under the Order will thus continue in force, but it will be advisable that they should be reissued, making provision for the imposing of penalties for offences. No such provision was formerly necessary, for by section 61 of the Act of 1878 any person doing anything in contravention of the regulation of a local authority was guilty of an offence against that Act, and punishable under section 60 by a penalty not exceeding 20*l*. But under the last preceding sub-section penalties must be imposed by the local authority as if such regulations were bye-laws; in other words, the regulations must themselves provide for penalties, otherwise it is very doubtful whether any penalty could be recovered. Since the issuing of the Order of 1886 this difficulty no longer exists in connection with penalties for offences against the Order of 1885.

The old register will, so far as it relates to the district of any local authority, be the register of such authority, and will thenceforth be kept by such authority.

The following is the text of the Dairies, Cowsheds, and Milkshops Order of 1885, referred to in the preceding Act:

At the Council Chamber, Whitehall, the 15th day of June, 1885.

By Her Majesty's Most Honourable Privy Council.

Present: Lord President, Mr. Trevelyan.

The Lords and others of Her Majesty's Most Honourable Privy Council, by virtue and in exercise of the powers in them vested under the Contagious Diseases (Animals) Act, 1878, and of every other power enabling them in this behalf, do order, and it is hereby ordered, as follows:—

Short title.

1. This Order may be cited as the Dairies, Cowsheds, and Milkshops Order of 1885.(*a*)

Extent.

2. This Order extends to England and Wales and Scotland only.

Commencement.

3. This Order shall commence and take effect from and immediately after the thirtieth day of June, one thousand eight hundred and eighty-five.

Interpretation.

4. In this Order—

The Act of 1878 means the Contagious Diseases (Animals) Act, 1878.

Other terms have the same meaning as in the Act of 1878.(*b*)

(*a*) This Order is now to be deemed to have been made by the Local Government Board: see section 9, sub-section (6), *ante*, p. 431.

(*b*) Except that the Local Government Board is substituted for the Privy Council, and the local authority referred to throughout the Order means the urban and rural sanitary authorities throughout the country: see section 9, sub-sections (1), (2). See also Article 14, *post*, and the note thereto.

Section 9.

NOTE.

Revocation of former Order.

5. The Dairies, Cowsheds, and Milkshops Order of July, 1879, is hereby revoked: Provided that nothing in this Order shall be deemed to revive any Order of Council thereby revoked or to invalidate or make unlawful anything done before the commencement of this Order, or interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty incurred under, the said Order hereby revoked.

Registration of dairymen and others.

6.—(1) It shall not be lawful for any person to carry on in the district of any local authority the trade of cowkeeper, dairyman, or purveyor of milk unless he is registered as such therein in accordance with this article.(*c*)

(2) Every local authority shall keep a register of persons from time to time carrying on in their district the trade of cowkeepers, dairymen, or purveyors of milk, and shall from time to time revise and correct the register.(*d*)

(3) The local authority shall register every such person,(*e*) but the fact of such registration shall not be deemed to authorise such person to occupy as a dairy or cowshed any particular building or in any way preclude any proceedings being taken against such person for non-compliance with or infringement of any of the provisions of this Order or any regulation made thereunder.

(4) The local authority shall, from time to time, give public notice by advertisement in a newspaper circulating in their district and, if they think fit, by placards, hand-bills, or otherwise, of registration being required, and of the mode of registration.(*f*)

(5) A person who carries on the trade of cowkeeper or dairyman for the purpose only of making and selling butter or cheese, or both, and who does not carry on the trade of purveyor of milk, shall not, for the purposes of registration, be deemed to be a person carrying on the trade of cowkeeper or dairyman, and need not be registered.

(6) A person who sells milk of his own cows in small quantities to his workmen or neighbours, for their accommodation, shall not, for the purposes of registration, be deemed, by reason only of such selling, to be a person carrying on the trade of cowkeeper, dairyman, or purveyor of milk, and need not, by reason thereof, be registered.(*g*)

(*c*) As to the penalty for a breach of this article, see Order of 1st November, 1886, *post*.

(*d*) As to the transfer of the old register, see section 9, sub-section (6), (*b*), *ante*, p. 432.

(*e*) Note that the local authority cannot refuse to register any person applying for that purpose; but such registration does not afford any protection in respect of the keeping of a dairy, &c., in such a way as to contravene the provisions of the Order in other respects, or of any regulations made under it.

(*f*) Forms of placards and circulars have been prepared and published by Messrs. Shaw and Sons, of Fetter Lane, which may be used in compliance with this requirement.

(*g*) This exception appears to extend to all persons who sell milk otherwise than as part of their trade or business. The object of registration is to secure supervision of all persons whose business consists wholly or in part of supplying or selling milk. Thus, a person who keeps one or two cows for the supply of milk for his own household does not require to be registered merely because he sells his surplus milk to his neighbours. On the other hand, a person who keeps cows for the purpose of selling his milk must be registered. It may be difficult, in some cases, to decide whether a person is entitled to the benefit of this exemption.

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NOTE. Construction of water-supply of new dairies and cowsheds.

7.—(1) It shall not be lawful for any person following the trade of cowkeeper or dairyman to begin to occupy as a dairy or cowshed any building not so occupied at the commencement of this Order, unless and until he first makes provision, to the reasonable satisfaction of the local authority, for the lighting and the ventilation, including air-space, and the cleansing, drainage, and water-supply of the same, while occupied as a dairy or cowshed.

(2) It shall not be lawful for any such person to begin so to occupy any such building without first giving one month's notice in writing to the local authority of his intention so to do.(*a*)

Sanitary state of all dairies and cowsheds.(*b*)

8. It shall not be lawful for any person following the trade of cowkeeper or dairyman to occupy as a dairy or cowshed any building, whether so occupied at the commencement of this Order or not, if and as long as the lighting, and the ventilation, including air-space, and the cleansing, drainage, and water-supply thereof are not such as are necessary or proper—

(*a*) For the health and good condition of the cattle therein; and

(*b*) For the cleanliness of milk-vessels used therein for containing milk for sale; and

(*c*) For the protection of the milk therein against infection or contamination.

Contamination of milk.

9. It shall not be lawful for any person following the trade of cowkeeper or dairyman or purveyor of milk, or being the occupier of a milk-store or milkshop—

(*a*) To allow any person suffering from a dangerous infectious disorder,(*c*) or having recently been in contact with a person so suffering, to milk cows or to handle vessels used for containing milk for sale, or in any way to take part or assist in the conduct of the trade or business of the cowkeeper or dairyman, purveyor of milk, or occupier of a milk-store or milkshop, so far as regards the production, distribution, or storage of milk; or

(*b*) If himself so suffering or having recently been in contact as aforesaid, to milk cows, or handle vessels used for containing milk for sale, or in any way to take part in the conduct of his trade or business, as far as regards the production, distribution, or storage of milk—

until in each case all danger therefrom of the communication of infection to the milk or of its contamination has ceased.(*d*)

10. It shall not be lawful for any person following the trade of cowkeeper or dairyman or purveyor of milk, or being the occupier of a milk-store or milkshop, after the receipt of notice of not less than one month from the local authority calling attention to the provisions of this article,

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(*a*) This article applies only to new dairies and cowsheds. It does not apply to dairies and cowsheds already occupied. The several requirements of the article should be carefully noticed.

(*b*) This article applies both to old and to new dairies and cowsheds. It is presumably for the local authority to decide whether the lighting, ventilation, &c., are reasonable and proper. The regulations made under Article 13 should prescribe what the local authority consider reasonable and proper.

(*c*) Note the word *dangerous*. It means, apparently, dangerous to life, and applies to such diseases as small pox, scarlet fever, and the like. It probably also applies to measles.

(*d*) It will be prudent in all cases to obtain medical advice as to whether the danger has ceased.

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to permit any water-closet, earth-closet, privy, cesspool, or urinal to be within, communicate directly with, or ventilate into, any dairy or any room used as a milk-store or milkshop.(*e*)

11. It shall not be lawful for any person following the trade of cow-keeper or dairyman or purveyor of milk, or being the occupier of a milk-store or milkshop to use a milk-store or milkshop in his occupation, or permit the same to be used as a sleeping apartment, or for any purpose incompatible with the proper preservation of the cleanliness of the milk-store or milkshop, and of the milk-vessels and milk therein, or in any manner likely to cause contamination of the milk therein.

12. It shall not be lawful for any person following the trade of cow-keeper or dairyman or purveyor of milk to keep any swine in any cowshed or other building used by him for keeping cows, or in any milk-store or other place used by him for keeping milk for sale.

Regulations of local authority.(*f*)

13. A local authority may from time to time make regulations for the following purposes, or any of them:(*g*)—

(*a*) For the inspection of cattle in dairies.

(*b*) For prescribing and regulating the lighting, ventilation, cleansing, drainage, and water-supply of dairies and cowsheds in the occupation of persons following the trade of cowkeepers or dairymen.

(*c*) For securing the cleanliness of milk-stores, milkshops, and of milk-vessels used for containing milk for sale by such persons.

(*d*) For prescribing precautions to be taken by purveyors of milk and persons selling milk by retail against infection or contamination.(*h*)

Provisions as to regulations of local authority.

14. The following provisions shall apply to regulations made by a local authority under this Order:—

(1) Every regulation shall be published by advertisement in a newspaper circulating in the district of the local authority.(*i*)

(2) The local authority shall send to the Privy Council(*k*) a copy of every regulation made by them not less than one month before the date named in such regulation for the same to come into force.

(3) If at any time the Privy Council(*k*) are satisfied on inquiry, with respect to any regulation, that the same is of too restrictive a character, or otherwise objectionable, and direct the revocation thereof, the same shall not come into operation, or shall thereupon cease to operate, as the case may be.

(*e*) Notice under this article must proceed from the local authority. Notice from an officer will not be sufficient unless first directed to be given by the local authority: see *St. Leonard, Shoreditch*, v. *Holmes*, 50 J. P. 132. The notice should be in writing, though the text does not so require, in order that there may be no dispute as to its terms should legal proceedings be afterwards founded upon it.

(*f*) The regulations prepared by Shirley F. Murphy, Esq., M.R.C.S., and published by Shaw and Sons, Fetter Lane, E.C., may be adopted by local authorities.

(*g*) These regulations do not require confirmation, except as provided by the next article. They should be adopted by resolution, and the resolution should be entered on the Minutes. The regulations should be identified by the Minute, and sealed with the seal of the local authority.

(*h*) The regulations should also provide for the imposing of penalties: see the note to section 9, sub-section (5), *ante*, p. 431.

(*i*) It may be advisable also to publish them by placards.

(*k*) Now the Local Government Board: see the Order of 1st November, 1886, *post*.

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NOTE. Existence of disease among cattle.

15. If at any time disease(*a*) exists among the cattle in a dairy or cowshed, or other building or place, the milk of a diseased cow therein—

(*a*) Shall not be mixed with other milk; and

(*b*) Shall not be sold or used for human food; and

(*c*) Shall not be sold or used for food of swine or other animals, unless and until it has been boiled.

Acts of local authorities.

16.—(1) All orders and regulations made by a local authority under the Dairies, Cowsheds, and Milkshops Order of July, 1879, or any Order revoked thereby, and in force at the making of this Order shall, as far as the same are not varied by or inconsistent with this Order, remain in force until altered or revoked by the local authority.

(2) Forms of registers and other forms which have been before the making of this Order prepared for use by a local authority under the Dairies, Cowsheds, and Milkshops Order of July, 1879, or any Order revoked thereby, may be used, as far as they are suitable, for the purposes of this Order.

Scotland.

17. Nothing in this Order shall be deemed to interfere with the operation of the Cattle Sheds in Burghs (Scotland) Act, 1866.

THE DAIRIES, COWSHEDS, AND MILKSHOPS AMENDING ORDER, 1886.

[1st November, 1886.]

To the mayor and commonalty and citizens of the City of London, acting by the mayor, aldermen, and commons of that city in common council assembled; to the Metropolitan Board of Works; to the several urban and rural sanitary authorities for the time being in England and Wales; and to all others whom it may concern.

Whereas by section 34 of the Contagious Diseases (Animals) Act, 1878 (hereinafter referred to as "the principal Act"), it was enacted that Her Majesty's Most Honourable Privy Council (hereinafter referred to as "the Privy Council") might from time to time make such general or special orders as they should think fit, subject and according to the provisions of the Act, for the purposes specified in that section;

And whereas on the 15th day of June, 1885, the Privy Council, in pursuance of the powers vested in them by the principal Act, made a General Order known as "The Dairies, Cowsheds, and Milkshops Order of 1885" (hereinafter referred to as "the Order of 1885"); and such Order extends to the whole of England and Wales;

And whereas by Article 14 of the Order of 1885 it is provided that a copy of every regulation therein referred to shall be sent to the Privy Council, and that if at any time the Privy Council are satisfied on inquiry with respect to any regulation that the same is of too restrictive a character, or otherwise objectionable, and direct the revocation thereof, the same shall not come into operation, or shall thereupon cease to operate, as the case may be.

And whereas by section 9 of the Contagious Diseases (Animals) Act, 1886 (hereinafter referred to as "the Act of 1886"), it is enacted as follows:—

(1) The powers vested in the Privy Council of making general or special orders under section 34 of the principal Act, for the purposes in that section mentioned, are hereby transferred to and shall henceforth be exerciseable by the Local Government Board; every such order shall have

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(*a*) The word "disease" has the meaning assigned to it by the Act of 1878 (see section 4 of this Order, *ante*, p. 432). It, therefore, means only cattle plague, pleuro-pneumonia, and foot and mouth disease.

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effect as if enacted in this section, and shall be published in such manner as the Local Government Board may direct, and the said Board may from time to time alter or revoke any such order.

(2) For the purposes of the said section and this section, and of any order in force thereunder, the expression local authority, unless the context otherwise requires, in the metropolis has the same meanings as in the principal Act, and elsewhere has the same meanings as in the Public Health Act, 1875.

* * * * *

(5) The like penalties for offences against orders or regulations made for the purposes of section 34 of the principal Act, as amended by this section, may be imposed by the Local Government Board or local authority making the same, and such offences may be prosecuted and penalties recovered in a summary manner, and subject to the like provisions, as if such orders or regulations were bye-laws of a local authority under the Public Health Act, 1875, and as if the local authority mentioned in that Act included a local authority in the metropolis as defined in this section.

* * * * *

6 (*a*). The Dairies, Cowsheds, and Milkshops Order of 1885, and any regulations thereunder, or having effect in pursuance thereof, made by any local authority under the principal Act, other than the local authority of a county, shall be deemed to have been made respectively by the Local Government Board and by a local authority under this section.

And whereas it is expedient that the Order of 1885 should be altered as hereinafter mentioned, and that penalties should be imposed for offences against such order:

Now therefore, We, the Local Government Board, in pursuance of the powers vested in Us by the Act of 1886, hereby order as follows:—

Article 1. This Order may be cited as "The Dairies, Cowsheds, and Milkshops Amending Order of 1886."

Article 2. Article 14 of the Order of 1885 shall be altered by the substitution therein of the words "Local Government Board" for the words "Privy Council" occurring therein.

Article 3. If any person is guilty of an offence against the Order of 1885, he shall for every such offence be liable to a penalty of 5*l.*, and in the case of a continuing offence to a further penalty of 40*s.* for each day after written notice of the offence from the local authority.

Provided, nevertheless, that the justices or court before whom any complaint may be made, or any proceedings may be taken in respect of any such offence, may, if they think fit, adjudge the payment as a penalty of any sum less than the full amount of the penalty imposed by this Order.

Article 4. In this Order the expression "local authority" means—

In the City of London and the liberties thereof, the mayor and commonalty and citizens of the City of London acting by the mayor, aldermen, and commons of that city in common council assembled:

In the metropolis, except the City of London and the liberties thereof, the Metropolitan Board of Works:

Elsewhere than in the metropolis, the urban or rural sanitary authority.

Given under the seal of office of the Local Government Board, this 1st day of November, 1886.

CHAS. J. RITCHIE, *President.*

HUGH OWEN, *Secretary.*

Preamble.

THE EXTRAORDINARY TITHE REDEMPTION ACT, 1886.

49 & 50 VICT. CHAP. 54.

An Act to amend the Tithe Commutation Acts as to Extraordinary Tithe Rentcharge on hop grounds, orchards, fruit plantations, and market gardens, and to provide for fixing the capital value thereof and the redemption of the same.

[25th June, 1886.]

WHEREAS by the Acts relating to the commutation of tithes in England and Wales power is given to impose an extraordinary charge and an additional rentcharge by way of extraordinary charge (both which charges are herein-after included under the expression "extraordinary charge") on hop grounds, orchards, fruit plantations, and market gardens:

And whereas the extraordinary charge levied under these Acts is an impediment to agriculture, and it is expedient that the same be limited in manner herein-after appearing, and that power be given to redeem the same in the manner and upon the terms herein-after mentioned:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Limitation of extraordinary charge.

1. From the date of the passing of this Act no extraordinary charge shall be charged or levied under the Tithe Commutation Acts on any hop ground, orchard, fruit plantation, or market garden, newly cultivated as such after the passing of this Act.

The following are the principal enactments relating to the extraordinary tithe rentcharge:—

6 & 7 Will. 4, c. 71.

S. 40. In case any of the lands in the parish shall be hop grounds, orchards, or gardens, and notice shall be given by the owner thereof to the Commissioners or assistant commissioner acting in that behalf, that the tithes thereof should be separately valued, the Commissioners or assistant commissioner shall estimate the value of the tithes thereof according to the average rate of composition for the tithes of hops, fruit and garden produce respectively, during seven years preceding Christmas in the year 1835, within a district to be assigned in each case by the Commissioners or assistant commissioner, and estimating the same as chargeable to all parliamentary, parochial, county, and other rates, charges, and assessments, to which the said tithes are liable, and shall add the value so estimated to the value of the other tithes of the parish ascertained as aforesaid.

S. 42. The amount which shall be charged by any such apportionment as hereinafter provided upon any hop grounds or market gardens in any

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district so to be assigned, shall be distinguished into two parts, which shall be called the ordinary charge and the extraordinary charge, and the extraordinary charge shall be a rate per imperial acre, and so in proportion for less quantities of ground, according to the discretion of the valuers, or Commissioners or assistant commissioner, by whom the apportionment shall be made as aforesaid; and all lands whereof the tithes shall have been commuted under this Act, and which shall cease to be cultivated as hop-grounds or market-gardens at any time after such commutation, shall be charged after the 31st day of December next following such change of cultivation only with the ordinary charge upon such lands; and all lands in any such district, the tithes whereof shall have been commuted under this Act, and which shall be newly cultivated as hop grounds or market gardens at any time after such commutation, shall be charged with an additional amount of rentcharge per imperial acre, equal to the extraordinary charge per acre upon hop grounds and market gardens respectively in that district: Provided always, that no such additional amount shall be charged or payable during the first year, and half only of such additional amount during the second year of such new cultivation; and an additional rentcharge by way of extraordinary charge upon hop grounds and market gardens, newly cultivated as such beyond the limits of every district in which any extraordinary charge for hop grounds or market gardens respectively shall have been distinguished as aforesaid at the time of the commutation, shall be charged by the Commissioners at the time of such new cultivation, upon the request of any person interested therein, if such new cultivation shall have taken place during the continuance of the commission of the said Commissioners, and after the expiration of the commission shall be charged in such manner and by such authority as parliament shall direct, and shall be payable and recoverable in like manner and subject to the same incidents in all respects as an extraordinary charge charged upon any hop grounds or market gardens at the time of commutation.

2 & 3 Vict. c. 62.

S. 26. And be it enacted that in case any of the lands in a parish the tithes whereof shall be in course of commutation under the provisions of the said first-recited Act shall be orchards or fruit plantations, and notice in writing under the hands of any of the owners thereof, whose interest therein shall not be less than two-thirds of the whole of the orchards and fruit plantations in such parish, shall be given to the valuers or Commissioners or assistant commissioner by whom any apportionment provided for by the said Act, shall be made at any time before the draft of such apportionment shall be framed, that the tithes thereof should be distinguished into two parts, the amount which shall be charged by any such apportionment upon the several orchards and fruit plantations in such parish shall be distinguished into two parts accordingly, and the same shall be called the ordinary charge and the extraordinary fruit charge; and the extraordinary charge shall be a rate per imperial acre, and so in proportion for less quantities of ground, according to the discretion of the valuers or Commissioners or assistant commissioner by whom such apportionment shall be made as aforesaid.

S. 27. And be it enacted, that all lands the tithes whereof shall have been commuted under the said Act, which shall be situate within the limits of any parish in which an extraordinary fruit charge shall have been distinguished as aforesaid at the time of commutation, and which shall be newly cultivated as orchards or fruit plantations at any time after such commutation, shall be charged with an additional amount of rentcharge per imperial acre equal to the extraordinary fruit charge per acre in that parish: Provided always that no such additional amount shall be charged in respect of any plantation of apples, pears, plums, cherries, and filberts, or of any one or more of those fruits, during the first five years, and half only of such additional amount during each of the next succeeding five years, of such new cultivation thereof; and that no such additional amount shall be charged in respect of any plantation of gooseberries, currants, and raspberries, or of any one or more of those fruits, during the first two years, and

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half only of such additional amount during each of the next succeeding two years, of such new cultivation thereof, and that no such additional amount shall be charged in respect of any mixed plantation of apples, pears, plums, cherries, or filberts, and of gooseberries, currants, or raspberries during the first three years, and half only of such additional amount during each of the next succeeding three years of such new cultivation thereof.

S. 28. And be it enacted, that all lands the tithes whereof shall have been commuted as aforesaid, which shall be situated within the limits of any parish in which an extraordinary fruit charge shall have been distinguished as aforesaid, and which shall cease to be cultivated as orchards or fruit plantations at any time after such commutation, shall be charged, after the thirty-first day of December next following such change of cultivation, only with the ordinary charge upon such lands.

S. 29. Provided also, and be it enacted, that in case any lands within the limits of a parish in which an extraordinary fruit charge shall have been distinguished as aforesaid shall have been or shall at any time be planted with fruit, and also with hops, the same shall, during the continuance of such mixed plantation of hops and fruit, be liable to the extraordinary hop charge only, or to the extraordinary fruit charge only, payable in respect of the same lands, not to both those charges; and that the extraordinary charge to which the lands so planted shall be liable shall be the higher of the two for the time being.

S. 30. And be it enacted, that where any land liable to any such extraordinary charge for the tithe of a mixed plantation of hops and fruit shall at the time of the commutation produce both rectorial and vicarial tithes payable to different persons, the apportionment shall set out the same, distinguishing the amount of ordinary and extraordinary charge payable to each tithe-owner, and shall divide the whole acreable extraordinary charge between such tithe-owners, according to the quantity of land producing rectorial tithe, and the quantity producing vicarial tithe.

S. 31. And be it enacted, that in all cases in which there shall be hereafter mixed plantations of hops and of such fruit as aforesaid in any parish or district in which an extraordinary fruit charge shall have been declared, the rectorial and vicarial tithes whereof, but for the commutation, would have been payable to different owners, the extraordinary charge payable in respect of the tithes of such mixed plantation shall be divided between such owners in proportion to the extent of land occupied by that produce which would have paid tithes to each of them respectively: Provided always that payment of the share of each tithe-owner, when so ascertained, shall be taken to be subject to the provisions contained in the said first-recited Act, and in this Act, for lessening the amount of extraordinary charge payable in respect of hop gardens and orchards respectively at the beginning of such cultivation.

S. 32. And be it enacted that, for the purpose of fixing any charge for the tithes of hops or fruit, or of any mixed plantation as aforesaid, the Commissioners may, if they see fit, assign the parish or lands, in respect of which due notice shall have been given, requiring the tithes thereof to be separately valued, as required by the said first recited Act, or any part or parts of such parish or lands, as a district under the provisions of the said Act, and may fix a charge upon such lands in respect of the tithes of hops or fruit as the rentcharge to prevail and to be established in respect of the same, without specific reference in the award to any other parish or lands, but having regard nevertheless to the general amount of compositions which they shall find to have prevailed in other parishes of a similar description, and not to the money payments in the parish under consideration, or the value of the tithes in kind therein.

S. 33. And be it enacted and declared, that the provisions of the said first recited Act for distinguishing rentcharges apportioned upon lands cultivated as hop grounds into two parts, and for relieving lands from, and subjecting the same to an extraordinary charge when ceased to be cultivated,

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and when newly cultivated as such respectively, shall be held to extend to parochial agreements already or hereafter made, and to the proceeding consequent thereupon, and to the lands discharged from tithes by virtue thereof; and that every such agreement and proceeding whereby any district has been or shall be assigned for establishing or distinguishing into two parts any rentcharge in respect of lands cultivated as aforesaid, shall be deemed valid, operative, and effectual for all the purposes of the said recited Acts, and of this Act, and that every district assigned by virtue thereof, shall be deemed a district duly assigned, and every rent charge created thereby a valid rentcharge for the like purposes.

3 & 4 Vict. c. 15.

S. 18. And be it enacted that in any case where the parties to a parochial agreement, or the Commissioners in the case of an award, shall have proceeded according to the provisions of the said recited Acts, to ascertain and fix a rentcharge in any parish wherein any of the lands shall at the time of making such agreement or award be cultivated as hop grounds or market gardens, and in case of proceeding by award when notice shall have been given that the tithes of any of the lands so cultivated should be separately valued, it shall be lawful for the said parties to declare in such agreement, or for the said Commissioners to declare in such award, the amount of extraordinary charge per acre to be in future payable in respect of hop grounds and market gardens respectively in such parish or any district therein; and the rentcharge mentioned in every such agreement or award respectively shall, subject to the addition of such acreable extraordinary charge, consist of the amount agreed for or awarded in respect of the tithes in such parish, other than the tithes of the lands cultivated therein as hop grounds and market gardens respectively, and the ordinary charge in respect of the lands so cultivated as hop grounds and market gardens respectively added thereto: Provided always, that no such extraordinary charge shall be payable in respect of any such hop grounds and market gardens during the first year, and only half such extraordinary charge during the second year, in which they shall be newly cultivated as such, whether such new cultivation shall have commenced before or after the making of such parochial agreement or award as aforesaid.

S. 19. And be it enacted, that it shall not be necessary to distinguish in any apportionment the amount of extraordinary rentcharge to be charged upon the lands of each individual landowner which shall be cultivated as hop grounds, market gardens, orchards, fruit plantations, or mixed plantations of hops and fruit, provided that the acreable amount of extraordinary charge for all the lands so cultivated respectively in any district which shall have been assigned, or in any parish wherein any extraordinary rentcharge shall have been declared, previous to the confirmation of the instrument of apportionment shall be inserted therein.

23 & 24 Vict. c. 93.

S. 42. Whenever the Commissioners are requested in the manner provided by the said recited Acts to charge an additional rentcharge by way of extraordinary charge upon any hop grounds or market gardens newly cultivated as such beyond the limits of any district for which an extraordinary charge for hop grounds or market gardens respectively shall have been already distinguished, the Commissioners may declare the lands in the parish in which such newly cultivated hop grounds or market gardens are situate, a district within which the extraordinary charge to be then fixed by them shall be thereafter payable.

S. 43. For the purpose of ascertaining the extent of the land cultivated as hop grounds or market gardens, the person to whom any extraordinary charge upon such land is or would be payable, his agents or servants, at all reasonable times, may enter upon the said land, and make an admeasurement and plan of the same without being subject to any action or molestation for so doing.

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36 & 37 Vict. c. 42.

S. 1. So much of such sections and of the powers therein contained conferred on the Tithe Commissioners, as provide for the charging of an additional rentcharge by way of extraordinary charge on market gardens newly cultivated as such, shall extend and apply only to a parish in which an extraordinary charge for market gardens was distinguished at the time of commutation.

S. 2. Nothing in this Act shall affect or be deemed to apply to any proceedings taken or to be taken in relation to the charging of an additional rentcharge by way of extraordinary charge on market gardens newly cultivated as such in any case where an award in that behalf was made and confirmed, or where an application was made to the Tithe Commissioners to charge an additional rentcharge by way of extraordinary charge upon any market gardens newly cultivated as such, before the commencement of the present session of parliament.

The duties of the Tithe Commissioners were transferred to the Land Commissioners by 45 & 46 Vict. c. 38, s. 48, and to the Board of Agriculture by 52 & 53 Vict. c. 30, s. 2.

Fixing of capital value of extraordinary charge.

2. The Land Commissioners for England, hereinafter referred to as "the Commissioners," shall as soon as may be after the passing of this Act ascertain in each parish in England and Wales and certify the capital value of the extraordinary charge on each farm, or where not a farm on each parcel of land, in respect of which the said charge is payable at the date of the passing of this Act.

The Board of Agriculture now fulfils the duties by this Act imposed on the Land Commissioners: 52 & 53 Vict. c. 30, s. 2.

Manner in which capital value is to be ascertained.

3. For the purpose of estimating the capital value of the said charge the Commissioners shall take into consideration the net annual value of the same after allowing for the expenses of collection, rates, taxes (except income tax) and other outgoings, the value of the land subject to the said charge, the length of time during which the said charge has been paid, the prospect of the continuance or discontinuance of the special cultivation in respect of which the said charge is imposed, the right of the cultivator to discontinue such special cultivation at any time and thereby to cause the suspension of the said charge, the prospect of the substitution of other land on the same farm for such cultivation, notwithstanding the provisions of the first section of this Act, and any other special circumstances applicable to the farm or parcel of land under consideration, and shall if so advised or requested, hear evidence on behalf of the landowner, the tithepayer, and the tithe owner. The Commissioners shall then determine and certify under their seal the capital value of the said charge, and the value so certified shall, for the purposes of this Act, be the capital value of the charge: Provided that where the tithe owner is absolutely entitled to the

charge in fee simple in possession, or is empowered to dispose thereof absolutely, or to give an absolute discharge for the capital value thereof, the Commissioners may, on the joint application of the tithe owner, the tithe payer, and the landowner, or of the tithe owner and the landowner in cases where the last named is also the tithe payer, certify such amount as may be agreed on between them to be the capital value of the charge included in such applicetion. Section 3.

See the note to the preceding section.

Interest on capitalised value of extraordinary charge to be until redemption first charge on land.

4. (1) Subject to the provisions of this Act with respect to the redemption of charges, land in respect of which at the date of the passing of this Act extraordinary charge is payable shall, so soon as the capital value of the said charge shall have been certified under the provisions of this Act, be charged with the payment of an annual rentcharge equal to four per centum on such capital value, in lieu of the extraordinary charge which shall cease on the half-yearly day of payment thereof which shall immediately precede the date of the said certificate, such rentcharge to be a charge upon the particular farm or parcel of land in respect of which the same has been assessed.

This provision substitutes for the extraordinary rentcharge a fixed rentcharge on the land, the amount being 4 per cent. on the capital value ascertained in manner provided by section 3.

(2) Provided that the Commissioners may from time to time, if they think fit, on application by or on behalf of any person interested in land so charged, by order under their seal exonerate from the charge the whole or any part of that land, and may, if necessary, substitute other land for the land so exonerated, provided that the value of the land charged with the payment of the rentcharge shall be in their opinion equal to at least three times the capital value of the rentcharge and that such land is held under the same title, and subject to the same limitations as the land so exonerated.

(3) The rentcharge shall be payable half-yearly on the days on which the extraordinary charge in the parish has hitherto been payable, and the first payment thereof shall be made on the one of the said two days which shall first occur after the capital value shall have been certified as aforesaid, the first payment to be a full half-yearly payment. The rentcharge shall have priority over all existing and future estates, interests, and incumbrances whatever.

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(4) The rentcharge shall be payable to the person who would but for this Act have been for the time being entitled to receive the extraordinary charge, and shall be held on the trusts and subject to the provisions and conditions (if any) applicable to that charge.

(5) If default is made in payment of any instalment of the rentcharge it may be recovered by action in Her Majesty's High Court of Justice, or a county court, or in the same way that rentcharge in lieu of ordinary tithe is recoverable and subject to like conditions, or by entry upon and perception of the rents and profits of the land subject to such rentcharge. The said rentcharge shall not be subject to any parochial, county, or other rate, charge, or assessment.

Rentcharge in lieu of ordinary tithe is recoverable by distress: 6 & 7 Will. 4, c. 71, s. 81. The provision in the text as to entry and perception of rents appears to supersede the remedy by writ of *habere facias* possession under 6 & 7 Will. 4, c. 71, s. 2. The text enables the tithe owner to enter without process.

Redemption of charge.

5. (1) The owner of or any person interested in any land subject either to an extraordinary charge or to a rentcharge substituted therefor under this Act may at any time redeem the charge in manner by this section provided.

(2) Where the person entitled to the charge is the incumbent of a benefice, the owner or any person interested in the land may pay the amount of the capital value of the extraordinary charge to the Governors of Queen Anne's Bounty (the receipt of whose treasurer shall be a sufficient discharge for the same), to be held or applied for the benefit of the incumbent for the time being, as if the same were money paid in redemption of ordinary rentcharge.

(3) Where the person entitled to the charge is absolutely entitled thereto in fee simple in possession, or is empowered to dispose thereof absolutely, or to give an absolute discharge for the capital value thereof, the owner of or any person interested in the land may, after giving one month's notice to the person entitled to the charge, pay or tender to him the amount of the capital value of the extraordinary charge or any less sum which may be agreed on.

(4) In any other case the owner of or any person interested in the land may pay the amount of the capital value of the extraordinary charge into the Bank of England, to be placed to the account of the Paymaster-General, in the matter of the land-

owner and the tithe owner (naming them), and in the matter of this Act; and the money so paid shall be applicable to the like purposes and may be dealt with in like manner as if it were money paid into the bank under the Tithe Commutation Acts. Section 5.

The provisions as to payment into the Bank and the disposal of the money so paid in are contained in 9 & 10 Vict. c. 73, s. 9.

(5) On proof to the Commissioners that payment or tender has been made as by this section provided in respect of any extraordinary charge or substituted rentcharge, they shall certify that the charge is redeemed, and that certificate shall be final and conclusive, and the land shall be thereby absolutely freed and discharged from the charge from the date of the next half-yearly payment.

Redemption in case of settled land.

6. (1) Money applicable to the purchase of land to be settled to or on any uses or trusts shall be applicable in or towards the redemption of an extraordinary charge or a rentcharge under this Act on land settled to or on the like uses or trusts.

(2) Where a person is tenant for life of land subject to an extraordinary charge or a rentcharge under this Act he may borrow any money required for redemption thereof, and may charge the inheritance with repayment of the money so borrowed with interest, and the charge so created shall have the like priority as a rentcharge under this Act.

(3) Where a person is tenant for life of land subject to an extraordinary charge or a rentcharge under this Act he may sell the land, or any part thereof, or any land settled to or on the like uses or trusts, and apply the proceeds in or towards redemption of the charge.

Charge to be borne by landlord.

7. (1) Where a tenant of land subject to an extraordinary charge has before the passing of this Act contracted to pay the charge or any part thereof he shall whilst his tenancy subsists be liable to pay to his landlord the rentcharge substituted for the extraordinary charge; and any sum which a tenant is so liable to pay may be recovered by the landlord as the tenant's rent is for the time being recoverable.

(2) For the purposes of this section a tenancy from year to year or a tenancy at will shall be deemed to determine at the time when it would by law become determinable if notice or warning to determine the same were given at the date of the passing of this Act.

Section 7.

(3) Subject as aforesaid a rentcharge under this Act shall as between landlord and tenant be payable by the landlord, any agreement to the contrary notwithstanding.

Land Commissioners may call for information from overseers.

8. The Commissioners in carrying out the provisions of this Act may require the overseers of any parish to supply such information as to the extraordinary charge (if any) in such parish as they, the said Commissioners, may consider necessary.

See the note to section 2, *ante*.

Provisions of Tithe Acts to apply.

9. All the provisions of the Tithe Commutation Acts in relation to any award or apportionment, including power for the Commissioners to hold meetings either by an Assistant Commissioner or otherwise, and to require and hear evidence and to employ valuers and other persons, shall be applicable to proceedings under this Act.

Expenses.

10. All expenses incurred by the Commissioners in carrying out the provisions of this Act shall be paid by the landowners, in rateable proportion to the sum certified as the capital value on their respective lands, and shall be recoverable in like manner as the expenses of and relating to an apportionment under the Tithe Commutation Acts.

Filing of certificates of Commissioners.

11. (1) Every certificate made by the Commissioners under this Act shall be filed in their office.

(2) An office copy of any certificate so filed shall be delivered out of their office to any person requiring the same on payment of the proper fee, and shall be sufficient evidence of the certificate whereof it purports to be a copy.

Power to Queen Anne's Bounty to modify mortgages.

12. When it shall appear to the Governors of Queen Anne's Bounty that the income of any benefice on which a mortgage to the said Governors exists has been diminished by the operation of this Act, it shall be lawful for the said Governors, by resolution of their board on the application of the incumbent, with the consent of the patron, to make such modification in the conditions of such mortgage or the term fixed for the repayment of the principal secured thereby as may seem to them just and reasonable.

The date of any such resolution, the term of extension, and the altered rate of payments or of instalments, shall be endorsed on the respective mortgage deeds free of charge to the incumbent.

The application of the provisions of this Act shall not in any way invalidate the instruments of security under which loans have been granted by the Governors; the said provisions shall extend and apply to such instruments as if originally, fully, and expressly inserted therein. Section 12.

13. Whereas under the provisions of Acts of Parliament certain fixed charges have been made on the income of benefices in receipt of extraordinary tithes in favour of other benefices or of district churches or chapelries situated within the limits of parishes of which the incumbents are in receipt of extraordinary tithes: Be it enacted that after the passing of this Act the Ecclesiastical Commissioners may make such alterations in the charges aforesaid, having in view the altered state of things created by this Act, as the said Commissioners may deem most equitable. Power to adjust charges on one benefice in favour of another.

14. For the purposes of this Act— Definitions.

"Landowner" means the person for the time being receiving the rackrent of land, whether on his own account or as trustee for any other person, or who would so receive it if the land were let at a rackrent:

"Tithe payer" means the person for the time being paying an extraordinary charge under the Tithe Commutation Acts:

"Tithe owner" means the person for the time being receiving an extraordinary charge under the Tithe Commutation Acts, whether on his own account or as trusteee for any other person, and includes any person so receiving a rentcharge substituted under this Act for an extraordinary charge:

"Person" includes a body of persons corporate or unincorporate.

15. This Act may be cited as the Extraordinary Tithe Redemption Act, 1886. Short title.

Preamble.

THE POLICE DISABILITIES REMOVAL ACT, 1887.

50 VICT. SESS. 2, CHAP. 9.

An Act to remove the Disabilities of the Police to vote at Parliamentary Elections. [23rd May, 1887.]

WHEREAS it is inexpedient that any person otherwise entitled to be registered as a voter should be incapacitated to vote at parliamentary elections by reason of his being employed in or in connection with the police:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Repeal.

1. The enactments mentioned in the schedule to this Act are hereby repealed to the extent mentioned in the third column of the said schedule.

The repealed Acts prohibited police constables from voting at Parliamentary elections. This prohibition is now withdrawn. But the 19 & 20 Vict. c. 69, s. 9, which forbids a constable of a borough to vote at a municipal election for the borough is still in force. And it appears that the name of a constable cannot be placed on the list of burgesses: *Doulon* v. *Halse*, 18 Q. B. D. 421; 56 L. J. Q. B. 41; 56 L. T. (N.S.) 340; 35 W. R. 502; 51 J. P. 183.

Constable on duty to be entitled to vote at any polling station.

2. Where a constable is or is likely to be, on the day of any election, sent or employed in the discharge of his duty so as to prevent him voting at the polling booth or station at which he would otherwise be entitled by law to vote, the following enactments shall have effect:—

(1) Such constable may, at any time within seven days before the election, apply to the chief constable for a certificate, and the chief constable shall thereupon give a certificate under his hand, stating the name of the constable, his number in the police force, his number and description on the register of voters, and the fact that he is so sent or employed;

(2) The presiding officer at any polling booth or station shall, on production by such constable of the said certificate, allow him to vote at that booth or station, and shall forthwith cancel the said certificate, and deal with the

same in like manner as the counterfoils of voting papers are directed by law to be dealt with; Section 2.

(3) No such constable shall, under this section, be entitled to vote at any election at which he would not, but for this section, be entitled to vote, nor more than once in any election, and if he so votes, or attempts to vote, he shall be subject to all the penalties imposed by law on a person personating or attempting to personate a voter at such election;

(4) In this section—

(*a*) "Constable" includes any person belonging to a police force;

(*b*) "Chief constable" includes an assistant chief constable, a commissioner or assistant commissioner of police, a head constable, and any other person for the time being in command of a police force, or acting in that capacity;

(*c*) "Register of voters" has the same meaning as in the Ballot Act, 1872. 35 & 36 Vict. c. 33.

3. A person otherwise entitled to be registered as a voter at parliamentary elections in respect of the occupation of a dwelling-house shall be deemed an inhabitant occupier thereof as tenant notwithstanding his temporary absence therefrom in the execution of duty as a police officer during a part of the qualifying period, not exceeding four consecutive months. Registration in case of temporary absence of police officer on duty.

But for this provision a constable would be disqualified by reason of his non-residence while absent on duty: see *Ford* v. *Hart*, L. R. 9 C. P. 273; 43 L. J. C. P. 24; 29 L. T. (N.S.) 685; *Ford* v. *Drew*, 5 C. P. D. 59; 49 L. J. C. P. 172; 41 L. T. (N.S.) 478; *Ford* v. *Barnes*, 16 Q. B. D. 254; 55 L. J. Q. B. 24; 53 L. T. (N.S.) 675; 34 W. R. 75; 50 J. P. 23; *Spittall* v. *Brook*, 18 Q. B. D. 426; 56 L. J. Q. B. 48; 56 L. T. (N.S.) 364; 35 W. R. 520.

4. Section nine of the Act, nineteen and twenty Victoria, chapter two, shall be read and construed as if for the word "therein" were substituted the words "in certain elections of members to serve in Parliament." Amendment of section 9 of 19 & 20 Vict. c. 2.

5. Provided always, that this Act shall not operate to extend the benefit of the eighth section of the Corrupt Practices Prevention Act, 1854, to any person becoming entitled to vote by virtue of this Act. Saving as to section 8 of 17 & 18 Vict. c. 102.

The 17 & 18 Vict. c. 102, s. 8, provides that voters shall not be liable to serve as special constables during an election.

6. This Act may be cited as the Police Disabilities Removal Act, 1887. Short title.

Schedule.

SCHEDULE.

Session and Chapter.	Title.	Extent of Repeal.
PART I.—ENGLAND AND WALES.		
10 Geo. 4, c. 44 -	An Act to improve the police in and near the metropolis.	Section eighteen, the words "shall, during the time that he shall continue in any such office or within six calendar months after he shall have quitted the same, be capable of giving his vote for the election of a member for the counties of Middlesex, Surrey, Hertford, Essex, or Kent, or for any city or borough within the Metropolitan Police District, nor."
2 & 3 Vict. c. 93 -	An Act for the establishment of county and district constables by the authority of justices of the peace.	Section nine, "be capable of giving his vote for the election of a member to serve in Parliament for the county in which he is so appointed, or for any county adjoining thereto, or for any city or borough within any of the said counties, nor shall any such constable."
2 & 3 Vict. c. xciv. (Private)	An Act for regulating the police in the city of London.	Section eight, "be capable of giving his vote for the election of a member to serve in Parliament for the city of London or for the counties of Middlesex, Surrey, Hertford, Essex, or Kent, or for any city or borough within the Metropolitan Police District, nor shall."
19 & 20 Vict. c. 2 -	An Act to amend the Acts relating to the metropolitan police.	Section nine, the words "or voting in certain elections of members to serve in Parliament,"

SCHEDULE—*continued.*

Session and Chapter.	Title.	Extent of Repeal.
19 & 20 Vict. c. 69 -	An Act to render more effectual the police in counties and boroughs in England and Wales.	Section nine, the words "or for the election of a member to serve in Parliament for such borough, or any county in or to which such borough is situate either wholly or in part or adjoins, or for any borough within such county."
23 & 24 Vict. c. 135	An Act for the employment of the metropolitan police force in Her Majesty's yards and military stations.	Section five, the words "be capable of giving his vote for the election of a member to serve in Parliament for any county, or division of a county, or city, borough, or place in which, or in any part of which, he may be authorised to act under the provisions herein contained, or."
PART II.—SCOTLAND.		
20 & 21 Vict. c. 72 -	An Act to render more effectual the police in counties and burghs in Scotland.	Section seventeen, the words "be capable of giving his vote for the election of a member to serve in Parliament for the county in which he is so appointed, or in any part thereof, or for any county adjoining thereunto, or for any Royal or Parliamentary borough or town within any of the said counties, nor shall any such constable."

Preamble.

THE METROPOLIS MANAGEMENT (BATTERSEA AND WESTMINSTER) ACT, 1887.

50 & 51 VICT. CHAP. 17.

An Act to amend the Metropolis Management Acts.

[12th July, 1887.]

WHEREAS since the date of the Metropolis Management Act, 1855 (hereinafter called "the principal Act"), the parish of Saint Mary, Battersea, has greatly increased in the number of inhabited houses, in population, and in rateable value, so as to entitle the said parish to a more complete control and management of its local affairs, and it is therefore expedient to amend the principal Act:

And whereas under the principal Act the parishes of Saint Margaret and Saint John the Evangelist, Westminster, were united and form the Westminster district, and there is a board of works for that district constituted as in the said Act provided, and acting under the provisions of that Act:

And whereas by an Act passed in the twenty-fifth year of King George the Second, intituled "An Act for the Better Relief and Employment of the Poor in the parishes of Saint Margaret and Saint John the Evangelist, in the city of Westminster, and for cleansing the streets and repairing the highways within the said parishes" (in this Act called the Act of George the Second), the churchwardens and overseers of the poor and vestrymen of the said parishes are required to assemble and meet together in the parish church or vestry room of Saint Margaret annually, upon Tuesday in Easter week in the forenoon, or oftener from time to time if occasion shall require, for the purpose of ascertaining the moneys or rates to be assessed within the limits of the said two parishes for the relief of the poor, repairing of the highways, and cleansing the streets within the said parishes; and it is provided that the said churchwardens, overseers of the poor, vestrymen, and other inhabitants of the said parishes shall assemble and meet together in the said parish church or vestry room of Saint Margaret within twenty days after the said several rates have been ascertained as aforesaid, to make one general and equal pound rate or assessment for the relief of the poor, repairing the highways, and cleansing the streets within the said parishes:

And whereas it is expedient that the said Acts should be

amended, and provision made with reference to the said parishes as hereinafter contained: Preamble.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Interpretation.

1. In this Act—

"The Battersea Vestry" means the vestry of the parish of Saint Mary, Battersea, excluding Penge, as incorporated by this Act;

"The Wandsworth District Board" means the board of works for the Wandsworth district as constituted by the principal Act, and as it will be constituted after the twenty-fifth day of March, one thousand eight hundred and eighty-eight.

Construction of Act.

2. The principal Act, as amended by any subsequent Act and this Act, shall be construed together as one Act.

Short title of 29 Vict. c. 31.

3. The Act passed in the twenty-ninth year of Her present Majesty, chapter thirty-one, intituled "An Act to provide for superannuation allowances to officers of vestries and other boards within the area of the Metropolis Local Management Act" may for the purposes of this Act, and for all other purposes, be cited as the Superannuation (Metropolis) Act, 1866.

BATTERSEA.

Separation of Battersea from the Wandsworth district.

4. From and after the twenty-fifth day of March, one thousand eight hundred and eighty-eight—

(1) The parish of Saint Mary, Battersea, excluding Penge, shall cease to be united with the parishes mentioned in Schedule "B." of the principal Act as forming the Wandsworth district, and the principal Act shall be read and have effect as if the said parish, excluding Penge, had been named in Part II. of Schedule "A." of the said Act, and the vestry of the said parish shall become and be a body corporate by the name of the vestry of the parish of Saint Mary, Battersea;

(2) The parishes named in the said Schedule "B." (other than the said parish of Saint Mary, Battersea), as forming the Wandsworth district, shall form the Wandsworth district for the purposes of the said Act;

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(3) The board of works for the Wandsworth district shall continue to be a body corporate by the name of the board of works for the Wandsworth district;

(4) No person elected a member of the Wandsworth District Board by the Battersea Vestry shall remain a member of that board, and the power of that vestry to elect any member of that board shall as from that date cease.

The Wandsworth district, therefore, now includes only the parishes of Clapham, Tooting Graveney, Streatham, Wandsworth, and Putney (including Roehampton).

Battersea Vestry to elect one member of the Metropolitan Board of Works.

5. The Battersea Vestry shall, on the twenty-sixth day of March, one thousand eight hundred and eighty-eight, elect one person to be a member of the Metropolitan Board of Works, and thereupon the person elected by the Wandsworth District Board as a member of the Metropolitan Board of Works, whose term of office would have expired in June, one thousand eight hundred and eighty-eight, shall go out of office.

The member of the Metropolitan Board of Works first elected by the Battersea Vestry under this Act shall go out of office on the second Wednesday in June, one thousand eight hundred and eighty-eight.

The Metropolitan Board of Works has now ceased to exist, and its powers and duties are transferred to the county council: 52 & 53 Vict. c. 41, s. 40 (8).

Wandsworth District Board to elect two members of the Metropolitan Board of Works.

6. From and after the said twenty-sixth day of March, the Wandsworth District Board shall be entitled to elect two persons to be members of the Metropolitan Board of Works instead of the three whom they were authorised to elect under the principal Act, as amended by the Metropolis Management Amendment Act, 1885.

See the note to the preceding section.

Election, &c., of such members.

7. All the provisions of the principal Act as to election qualification, disqualification, and retirement of members of the Metropolitan Board of Works, and the filling up of vacancies, shall, subject to this Act, apply to the members of that board by this Act authorised to be elected.

See the note to section 5.

Bye-laws, &c., in Battersea.

8. All bye-laws and regulations made by the Wandsworth District Board, and subsisting on the twenty-fifth day of March,

one thousand eight hundred and eighty-eight, shall continue in force in the parish of Saint Mary, Battersea, and be enforceable by the Battersea Vestry instead of the Wandsworth District Board until repealed or altered in accordance with the law applicable thereto. Section 8.

Property, claims, &c., of district board apportioned.

9. On and after the said twenty-fifth day of March, one thousand eight hundred and eighty-eight—

(1) The property of the Wandsworth District Board hereinafter described, viz. :—

The hereditaments, offices, and buildings of the Wandsworth District Board situate in Battersea Rise, Battersea;

The furniture and fittings of the said offices and buildings;

All hereditaments belonging to the Wandsworth District Board situate within the parish of Saint Mary, Battersea;

All chattels belonging to the Wandsworth District Board used solely for the purposes of the said parish of Saint Mary, Battersea;

shall vest in and become the property of the Battersea Vestry.

(2) The property then belonging to the Wandsworth District Board, and not described in the preceding paragraph, shall remain and be the property of the Wandsworth District Board.

(3) The Battersea Vestry shall, within three calendar months from the twenty-fifth day of March, one thousand eight hundred and eighty-eight, pay to the Wandsworth District Board the sum of two thousand one hundred and seventy-six pounds, in full satisfaction for the hereditaments, offices, buildings, furniture, and fittings of the Wandsworth District Board situate in Battersea Rise, Battersea, and transferred to the Battersea Vestry under this Act.

(4) All sums due by the Wandsworth District Board to the Metropolitan Board of Works shall be apportioned between the Wandsworth District Board and the Battersea Vestry on the basis of the said vestry becoming liable for all sums due in respect of their parish, and of the Wandsworth District Board remain-

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ing liable for all sums due in respect of other parts of their district, and such apportionment shall be carried into effect by a deed, and until such apportionment all such sums shall remain and be a debt of the Wandsworth District Board, as constituted by the principal Act, to the Metropolitan Board of Works, and any moneys payable by the said district board in respect thereof shall, notwithstanding anything in this Act contained, be levied and paid in all respects as if this Act had not been passed.

(5) The sums due by the Wandsworth District Board to the Metropolitan Board of Works, and apportioned to the Wandsworth District Board, shall be a debt of the Wandsworth District Board to the Metropolitan Board of Works, and the Battersea Vestry shall not be liable to pay the same or any part thereof, and no security therefor shall operate against the said vestry or any property of the said vestry or rates leviable by them.

(6) The sums due by the Wandsworth District Board to the Metropolitan Board of Works, and apportioned to the Battersea Vestry, shall be a debt of the Battersea Vestry to the Metropolitan Board of Works, and the Wandsworth District Board shall not be liable to pay the same or any part thereof, and no security therefor shall operate against the Wandsworth District Board or any property of the said district board.

(7) The Battersea Vestry shall become liable to forthwith pay to the Wandsworth District Board: (1) the amount of all outstanding accounts and all expenses incurred for work undertaken or done solely for or within the parish of Saint Mary, Battersea; and (2) a proportion of the general establishment charges and expenses of the Wandsworth District Board up to the twenty-fifth day of March, one thousand eight hundred and eighty-eight, based upon the rateable value of the property comprised in the said parish, and in the other parishes forming the Wandsworth district respectively according to the valuation list then in force; and the Wandsworth District Board shall become and be liable to forthwith pay to the Battersea Vestry all unexpended moneys raised from or on account of the said parish and then in the hands of the Wandsworth District Board, and from time to time thereafter the said district

board shall pay to the said vestry any moneys so raised as and when the same shall come into their hands. Section 9.

10. Any officers in the service of the Wandsworth District Board whose duties are confined solely or mainly to the parish of Saint Mary, Battersea, or whom the said district board at any time previously to the said twenty-fifth day of March, one thousand eight hundred and eighty-eight, shall by resolution declare ought fairly to be transferred to the service of the Battersea Vestry, shall be transferred to the service of the said vestry upon the terms and conditions in each case of the appointment under the said district board; and with respect to every such officer, and to any other officer of the said district board, who shall, within one year from the said day, be appointed to an office in the service of the Battersea Vestry, the time during which he shall have been in the service of the Wandsworth District Board shall, in computing the time of his service for the purpose of superannuation under the Superannuation (Metropolis) Act, 1866, be added to the time during which he shall have been in the service of the Battersea Vestry, provided that every such resolution shall state the grounds on which the Wandsworth District Board considers that the officer or officers named therein ought fairly to be transferred to the service of the Battersea Vestry. As to parochial officers. 29 & 30 Vict. c. 31.

11. If any dispute or difference arise between the Wandsworth District Board and the Battersea Vestry as to the apportionment of any property, claim, demand, debt, or liability of the said district board, the same shall be referred for determination to an arbitrator, to be appointed by agreement between the said district board and vestry, or (in default of agreement) by one of Her Majesty's principal Secretaries of State on the application of the said district board and vestry, or either of them. Arbitration in case of difference.

Any person so appointed as arbitrator shall have power to give such directions as he may think expedient with reference to such apportionment, and to fix the amount of any compensation for loss of office to which, in his opinion, any of the officers of the Wandsworth District Board may be entitled in consequence of this Act, and as from the date of the award of such arbitrator the said property, claims, demands, debts, and liabilities shall be transferred and vest in accordance with the same, and any such award shall be final and conclusive.

There shall be paid to such arbitrator by the Battersea Vestry

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any expenses incurred by him or under his directions in relation to any arbitration or award made by him under this section, and any inquiry or inquiries relative thereto, including the expenses of any witnesses summoned by such arbitrator, and a sum to be fixed by such Secretary of State for the services of such arbitrator if the arbitrator be appointed by him.

All sums awarded for compensation and all expenses shall be paid by the said vestry.

38 & 39 Vict. c. 55.

The provisions of section one hundred and eighty of the Public Health Act, 1875 (regulations as to arbitration), shall, so far as applicable and subject to the provisions of this Act, apply to any arbitration under this Act.

WESTMINSTER.

Dissolution of district board of Westminster and incorporation of united vestry.

12. From and after the twenty-fifth day of March, one thousand eight hundred and eighty-eight, the Westminster district, as constituted by and for the purposes of the principal Act, shall cease to exist, and the board of works for that district shall be dissolved, and the said Act shall be read and have effect as if the parishes of Saint Margaret and Saint John the Evangelist, Westminster, had been named in Part II. of Schedule A. of the said Act, and were to be considered as one parish electing one member of the Metropolitan Board of Works, and the vestries of the said parishes shall from that date become and be a body corporate by the name of the united vestry of the parishes of Saint Margaret and Saint John the Evangelist, Westminster.

See the note to section 5, *ante*, p. 454.

Property, claims, &c., of Westminster Board to vest in the vestry.

13. From and after the said twenty-fifth day of March, one thousand eight hundred and eighty-eight, all property, claims, assets, debts, liabilities, and obligations of the board of works for the Westminster district, together with all duties and powers of the said board, shall vest in and be assumed by the united vestry of the parishes of Saint Margaret and Saint John the Evangelist, Westminster.

Bye-laws, &c., in Westminster.

14. All bye-laws and regulations made by the board of works for the Westminster district, and subsisting on the twenty-fifth day of March, one thousand eight hundred and eighty-eight, shall continue in force in the parishes of Saint Margaret and Saint John the Evangelist, Westminster, and be enforceable by

the said united vestry until repealed or altered in accordance with the law applicable thereto. Section 14.

15. All purchases, sales, conveyances, grants, assurances, deeds, contracts, bonds, and agreements made and entered into before the twenty-fifth day of March, one thousand eight hundred and eighty-eight, by, to, or with the board of works for the Westminster district shall be as binding and of as full force and effect in every respect against or in favour of the said united vestry, and may be enforced as fully and effectually as if, instead of the said district board, the said united vestry had been a party thereto, and any action, suit, or other proceeding pending by or against the said district board on the said twenty-fifth day of March may be maintained, prosecuted, or continued by or in favour of or against the said united vestry, as the case may be, in the same manner and as effectually as the same might have been maintained, prosecuted, or continued by or in favour of or against the said district board if this Act had not passed. As to contracts, &c., and actions of Westminster Board prior to passing of Act.

16. The officers in the service of the board of works for the Westminster district on the said twenty-fifth day of March, one thousand eight hundred and eighty-eight, shall on that day be transferred to the service of the united vestry of the said parishes upon the same terms and conditions, and for the performance of the same duties in each case, as those under and for the performance of which they hold their appointment under the board of works for the said district; and with respect to every such officer, and to any other officers of the said board of works, who shall, within one year from the passing of this Act, be appointed to an office in the service of the said united vestry, the time during which he shall have been in the service of the said district board shall, in computing the time of his service for the purpose of the Superannuation (Metropolis) Act, 1866, be added to the time during which he shall have been in the service of such vestry. Westminster Board officers.

17. So much of the Act of George the Second as requires the meetings of churchwardens, overseers of the poor, and vestrymen, and other inhabitants of the parishes of Saint Margaret and Saint John the Evangelist, Westminster, therein mentioned to be held in the parish church or vestry room of Saint Margaret at the times therein mentioned, is hereby repealed, and instead thereof the said meetings shall be held at the Town Hall, Caxton Street, in the city of Westminster, and the first of the said meetings shall be held within seven days before or after Altering time and place of Westminster vestry meetings.

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the twenty-fifth day of March in each year, and the second of the said meetings shall be held within twenty days after such first meeting for the several purposes for which the said meetings are respectively required to be held for the purposes of the Act of George the Second.

Payment of collectors of rates in Westminster.

18. It shall be lawful for the united vestry of the parishes of Saint Margaret and Saint John the Evangelist, Westminster, at any meeting held for the purposes of the Act of George the Second, to resolve that the collector or collectors of rates shall be paid by salary instead of (as provided by section six of the Act of George the Second) by an allowance in the pound on the amount collected, provided that such salary does not exceed the amount which, under the provisions of the said Act, might have been payable to such collector or collectors.

Short title.

19. This Act may be cited for all purposes as the Metropolis Management (Battersea and Westminster) Act, 1887.

QUARRY (FENCING) ACT, 1887.

50 & 51 VICT. CHAP. 19.

An Act to provide for the Fencing of Quarries.

[19th July, 1887.]

WHEREAS it is expedient to provide for the fencing of quarries in England and Wales:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Quarry (Fencing) Act, 1887.

Commencement of Act.

2. This Act shall not come into operation until the first day of January, one thousand eight hundred and eighty-eight.

Fencing of quarries.

3. Where any quarry dangerous to the public is in open or unenclosed land, within fifty yards of a highway or place of public resort dedicated to the public, and is not separated therefrom by a secure and sufficient fence, it shall be kept reasonably fenced for the prevention of accidents, and unless so kept shall

be deemed to be a nuisance liable to be dealt with summarily in manner provided by the Public Health Act, 1875. Section 3.

An unfenced quarry which is within this section is thus declared to be a nuisance within the meaning of section 91 of the Public Health Act, 1875. Proceedings may therefore be taken against the owner under that and the succeeding sections. Notice must be given to the owner or occupier under section 94 requiring the nuisance to be abated by the erection of a proper fence. If the notice is disregarded complaint may be made to justices under section 96, and the local authority may themselves abate the nuisance and recover the expenses under section 97.

It should be noticed that this Act applies to quarries which are being worked as well as to those which have ceased to be worked. In this respect it differs from the somewhat similar provisions of the Coal Mines Regulation Act, 1887, s. 37, *post*.

Interpretation.

4. In this Act—

The term "quarry" includes every pit or opening made for the purpose of getting stone, slates, lime, chalk, clay, gravel, or sand, but not any natural opening.

Extent of Act.

5. This Act shall not extend to Scotland and Ireland.

PUBLIC LIBRARIES ACTS AMENDMENT ACT, 1887.

50 & 51 VICT. CHAP. 22.

An Act to amend the Public Libraries Acts.

[8th August, 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short titles.

1. This Act may be cited as the Public Libraries Acts Amendment Act, 1887, and may, together with the Acts mentioned in the schedule hereto, be cited as the Public Libraries (England) Acts, 1855 to 1887.

Construction of Act.

2. This Act shall be construed with the Public Libraries (England) Acts, 1855 to 1884, and expressions used in this Act shall, unless the context requires a different construction, have the same meaning as in those Acts, and where any section in any of those Acts has been modified by a subsequent Act, the reference herein made to such section shall be construed to refer to the section so modified, and the reference shall have effect accordingly.

Section 3.

Extent of Act.

3. This Act shall not apply to Scotland, Ireland, or the city of London.

Definitions.

4. In this Act—

18 & 19 Vict. c. 120.

"Metropolis" shall mean the metropolis as defined by the Metropolis Management Act, 1855, excluding the city of London;

"Library authority" means the Council, Commissioners, Board, or other persons or authority carrying into execution the Public Libraries Acts.

"District board" means a district board constituted under the Metropolis Management Act, 1855, and "district" shall have a corresponding signification.

As to the library authorities here referred to see the note to 47 & 48 Vict. c. 37, s. 1, *ante*, p. 264.

Lending library. 18 & 19 Vict. c. 70.

5. The power to erect, establish, and maintain a library, given by the Public Libraries Act, 1855 (hereinafter called the principal Act) shall be extended so as to empower the library authority to establish and maintain a lending library without providing any separate building for containing the same, and to enable them to place such lending library under the care and superintendence of such person as they shall think fit, and in a building or room not appropriated for the purposes of the said Act, or erected, purchased, or rented by the library authority, and all the powers of the said Acts shall be applicable for the purposes of this section.

Amendment of Acts.

6. So much of section fifteen of the principal Act as incorporates with that Act certain clauses of the Towns Improvement Clauses Act, 1847, is hereby repealed.

The Public Libraries Amendment Act, 1877, shall have effect as if the Public Libraries Act, 1855, were recited therein.

The repealed portion of 18 & 19 Vict. c. 70, s. 15, was that which incorporated the clauses of the Towns Improvement Clauses Act relating to rates.

General Provisions.

Borrowing by library authorities. 38 & 39 Vict. c. 55.

7. Sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine, both inclusive, of the Public Health Act, 1875, shall apply, with the necessary modifications, to all moneys borrowed by any library authority after the passing of this Act, as if the library authority were an urban sanitary authority and as if references to the Public Libraries (England) Acts, 1855 to 1887, were substituted in those sections and in the forms therein

mentioned for references to the Sanitary Acts or the Public Health Act, 1875. Section 7.

So much of section seventeen of the principal Act as incorporates the clauses and provisions of the Companies Clauses Consolidation Act, 1845, with respect to the borrowing of money on mortgage or bond is hereby repealed except as to any money borrowed before the passing of this Act.

For the sections of the Public Health Act, 1875, here incorporated the reader is referred to Lumley's "Public Health Act," which also contains the text of all the Public Libraries Acts.

Transfer to Local Government Board of certain functions of Treasury.

8. The powers and duties of the Commissioners of Her Majesty's Treasury under the Public Libraries (England) Acts, 1855 to 1887, shall from and after the passing of this Act be transferred to the Local Government Board, and sections sixteen and eighteen of the principal Act shall be construed and have effect as if a reference to the approval of the Local Government Board were therein substituted for a reference to the approval of Her Majesty's Treasury.

The 18 & 19 Vict. c. 70, s. 16, relates to borrowing on mortgage of the rates, and section 18 relates to the appropriation, purchase or renting of lands for the purposes of the Act. For these purposes the consent of the Local Government Board, not the Treasury, is now required.

Provision as to parish partly within and partly without a borough or district. 29 & 30 Vict. c. 114.

9. Where any parish is partly within and partly without any borough or district which shall have adopted or shall contemplate the adoption of the principal Act, the part of such parish without the borough or district shall, for the purposes of the fourth section of the Public Libraries Amendment Act (England and Scotland), 1866, be considered a parish within the meaning of the said section; and the overseers of the poor for the said parish shall, for the purposes of the said section, be considered the overseers of the part of the parish situate without the borough or district, and the expenses referred to in the said section shall, so far as such part of the parish is concerned, be defrayed out of a rate to be levied by the overseers in such part of the parish, either as an addition to the poor rate, or as a separate rate to be made and recovered in the same way as a poor rate, and to be subject to the same rights of appeal.

The 29 & 30 Vict. c. 114, s. 4, enables a parish to unite with any adjoining borough district or parish for the purposes of the Acts.

Provisions affecting the Metropolis only.

Power for district in the metropolis to adopt the Act.

10. In the metropolis any district shall have power to adopt the principal Act, and for such purpose the said Act shall be altered and have effect as follows:—

(1) Sections eight, nine, twelve, fifteen, twenty-one, and

Section 10.

twenty-two shall be read as if the word "district" was substituted for the word "parish"; and the words "district board" instead of the word "overseers" and the word "vestry" as the case may be.

(2) Section thirteen shall not apply, and instead thereof the following provisions shall have effect:—

The expenses of calling and holding the meeting of the ratepayers, whether the principal Act shall be adopted or not, and the expenses incurred by the Commissioners in carrying the said Act and the Acts amending the same into execution in any district, to such amount as shall be from time to time sanctioned by the district board, shall be paid out of the funds of the district board applicable to the general expenses incurred by them in the execution of the Metropolis Management Act, 1855, and the sums required for the purpose of defraying the expenses incurred by the Commissioners as aforesaid shall be paid by the district board to such person as shall be appointed by the Commissioners to receive the same, but nothing herein contained shall enable district boards to levy or expend for the purposes of the principal Act and the Acts amending the same any greater sum in any year than one penny in the pound.

See 34 & 35 Vict. c. 71, s. 3.

(3) Section fourteen shall be read as if the words "district boards" were substituted for the word "vestries"; the word "district" for "parish"; and "Funds applicable to the general expenses incurred by the district board in the execution of the Metropolis Management Act, 1855," for "money to be raised for the relief of the poor," and section sixteen shall be read as if the words "district board" were substituted for the word "vestry," and the words "rates out of which the expenses of the Commissioners are payable" for the words "rates levied in pursuance of this Act."

(4) Where any parish has, previously to the passing of this Act, adopted the principal Act, or shall subsequently adopt the same:—

(*a*) No person shall, by reason of being a ratepayer of such parish, be accounted as a ratepayer of the district of which it forms a part.

(*b*) No representative on the district board for such parish shall take any part in any proceedings under this section.

(*c*) Such parish shall not be called upon to contribute towards any expenses incurred, and no part of the funds of such parish shall be expended in or towards calling or holding the meeting of the ratepayers of the district, or carrying the Act into execution in the district.

(*d*) And, in every respect, such parish shall, for the purposes of this section, be treated as if it were outside the district.

(*e*) Any question of accounts arising between such parish and the other parishes in the district, or between such parish and the district, in consequence of this section, shall be decided finally by the Local Government Board.

Power of parish preserved.

11. This Act shall not deprive any parish in the metropolis of the power of adopting the principal Act, but after any district shall have adopted the said Act, no parish within such district shall also adopt it in manner provided by section one of the Public Libraries Amendment Act, 1877, or hold a meeting for considering its adoption, without the consent of the Local Government Board.

40 & 41 Vict. c. 54.

SCHEDULE.

PUBLIC LIBRARIES (ENGLAND) ACTS. Section 1.

Session and Chapter.	Title.
18 & 19 Vict. c. 70 - - -	The Public Libraries Act, 1855.
29 & 30 Vict. c. 114 - -	The Public Libraries Amendment Act, (England and Scotland) 1866.
34 & 35 Vict. c. 71 - - -	The Public Libraries Act, 1855, Amendment Act, 1871.
40 & 41 Vict. c. 54 - - -	The Public Libraries Amendment Act, 1877.
47 & 48 Vict. c. 37 - - -	The Public Libraries Act, 1884.

The text of 47 & 48 Vict. c. 37, is set out, *ante*, p. 264.

Preamble.

THE INCUMBENTS RESIGNATION ACT, 1871, AMENDMENT ACT, 1887.

50 & 51 VICT. CHAP. 23.

An Act to amend the Incumbents Resignation Act, 1871.

[8th August, 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title. 34 & 35 Vict. c. 44.

1. This Act may be cited for all purposes as the Incumbents Resignation Act, 1871, Amendment Act, 1887, and the Incumbents Resignation Act, 1871 (hereinafter called "the principal Act"), and this Act may together be cited as the Incumbents Resignation Acts, 1871 and 1887.

When a person has been incumbent of a benefice for a period of seven years continuously and desires to retire on the ground that he is incapacitated by permanent mental or bodily infirmity, he may make a representation to the bishop, who then nominates a commission to enquire and report: 34 & 35 Vict. c. 44, s. 5. The constitution of the commission is prescribed by the Act (section 6). The commission are also to specify the amount of pension which, in their opinion, ought to be allowed out of the revenues of the benefice to the retiring incumbent, which must not exceed one-third of the annual value (section 8, and see section 5, *infra*). The pension allowed is a charge on the benefice.

Construction of Act.

2. This Act shall be construed together with the principal Act, and the provisions herein contained shall have effect as though they had been fully and expressly included in the principal Act.

Definition of "terminable mortgage."

3. The expression "terminable mortgage" in this Act means any mortgage created for securing the repayment of any loan by annual instalments, payments in the nature of a rentcharge, or otherwise, in a limited number of years.

Pensions to vary with tithe averages.

4. In the case of every pension awarded after the passing of this Act the amount of every half-yearly payment on account of such pension shall vary and shall from time to time be regulated by the averages published, under the provisions of an Act passed in the sixth and seventh years of His Majesty William the Fourth, chapter seventy-one, in the month of January next preceding the date of every such half-yearly payment, except

Section 4.

that, if no part of the income of the benefice is derived from tithe rentcharge, or glebe lands, then the pension shall not be subject to variation.

The effect of this provision will be seen on reference to the note to 45 & 46 Vict. c. 37, *ante*, p. 122.

Amendment of 34 & 35 Vict. c. 44, s. 8.

5. Section eight of the principal Act shall be read as if the following words were added at the end of the section: "or be an amount which shall not leave a sufficient income to secure the due performance of the services of the church, according to the scale of stipends set forth in the eighty-fifth section of the Act of the first and second Victoria, chapter one hundred and six"; and section eleven shall be read as if worded as follows: "The annual value of a benefice for the purposes of this Act shall be the net annual value, exclusive of the parsonage, vicarage, or other place of residence of the incumbent, after deducting all rates, taxes, and charges assessed upon and payable out of the benefice, which charges shall include the salary of any curate who is compulsorily employed, and any annual payments in respect of any terminable mortgage having at the time of the sitting of the said Commission more than two years to run."

The principal Act provided simply that in no case should the amount of the pension exceed one-third part of the annual value of the benefice (section 8), *i.e.*, the net annual value after deducting all rates, taxes, and charges upon the benefice exclusive of the parsonage (section 11).

Set off of pension against sum due for dilapidations. 34 & 35 Vict. c. 43.

6. If a retired clerk shall on retirement have become liable to the payment to his successor of any sum on account of dilapidations under the Ecclesiastical Dilapidations Act, 1871, and shall not have paid such sum in manner in the said Act mentioned, it shall be lawful for the incumbent of the benefice for the time being to withhold the amounts due from time to time in respect of any pension granted under the principal Act and to apply the same in discharge of the sum due for dilapidations as aforesaid until the whole debt shall have been discharged.

Provided that the amount so withheld in any one year shall not exceed one-half the total amount of the pension for such year without the consent of the bishop of the diocese in which such benefice shall be situate.

Preamble.

THE ALLOTMENTS AND COTTAGE GARDENS COMPENSATION FOR CROPS ACT, 1887.

50 & 51 VICT. CHAP. 26.

An Act to provide Compensation to the Occupiers of Allotments and Cottage Gardens for crops left in the ground at the end of their tenancies. [8th August, 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Allotments and Cottage Gardens Compensation for Crops Act, 1887.

This Act applies to sanitary authorities only in so far as they may provide allotments under the Allotments Act, 1887. In such cases they are landlords as defined by section 4 of this Act.

Extent of Act.

2. This Act shall not extend to Scotland or Ireland or to the metropolis.

Commencement of Act.

3. This Act shall come into force on the first day of January, one thousand eight hundred and eighty-eight, which day is in this Act referred to as the commencement of this Act.

Definitions.

4. In this Act—

"The metropolis" means the city of London and all parishes and places mentioned in Schedules A, B, and C to the Metropolis Management Act, 1855.

18 & 19 Vict. c. 120.

"Allotment" means any parcel of land of not more than two acres in extent held by a tenant under a landlord and cultivated as a garden or as a farm, or partly as a garden and partly as a farm.

"Cottage garden" means an allotment attached to a cottage.

"Holding" means an allotment or cottage garden.

"Tenant" means the holder of a holding under a landlord for any term, and includes the legal personal representative of a deceased tenant.

"Landlord" means the person for the time being entitled to receive the rents and profits of any holding.

Section 4.

"Person" includes a body of persons and a corporation aggregate or sole.

"Contract of tenancy" means the letting of land for any term.

"Determination of tenancy" means the cesser of a contract of tenancy by effluxion of time or from any other cause.

The designations of landlord and tenant shall for the purposes of this Act continue to apply to the parties to a contract of tenancy until the conclusion of any proceedings taken under this Act on the determination of a tenancy.

The definition of the term "landlord" as explained by the next definition, viz., that of the term "person," will include a sanitary authority who have provided allotments under the Allotments Act, 1887.

Compensation.

5. Upon the determination of the tenancy of a holding after the commencement of this Act the tenant shall be entitled notwithstanding any agreement to the contrary to obtain from the landlord compensation in money for the following matters and things, that is to say:—

(*a*) For crops, including fruit, growing upon the holding in the ordinary course of cultivation, and for fruit trees and fruit bushes growing thereon, which have been planted by the tenant with the previous consent in writing of the landlord.

(*b*) For labour expended upon and for manure applied to the holding since the taking of the last crop therefrom in anticipation of a future crop.

(*c*) For drains and for any outbuildings, pigsties, fowlhouses, or other structural improvements made by the tenant upon his holding with the written consent of his landlord.

The Allotments Act, 1887, section 7 (6), provides that the tenant of an allotment may, before the expiration of his tenancy, remove any fruit and other trees and bushes planted or acquired by him for which he has no claim for compensation. It will be observed that the text gives a right of compensation only in respect of fruit trees and fruit bushes planted with the consent in writing of the landlord. All other trees and bushes, and all fruit trees and fruit bushes planted without this consent, must be removed by the tenant if he desires to have the benefit of them.

It is difficult to reconcile the provisions of paragraph (*c*) with the Allotments Act, 1887, section 8, sub-section 5. By that section the tenant of an allotment is allowed to erect certain specified buildings. He may remove such buildings at the end of his tenancy, but he cannot claim compensation for them. Compensation may, however, be claimed for drains under this section.

Section 6.

Deduction from compensation on account of rent or breach of contract.

6. In the ascertainment of the amount of compensation payable to the tenant under this Act, any sum due to the landlord in respect of rent or of any breach of the contract of tenancy or wilful or negligent damage committed or permitted by the tenant shall be taken into account in reduction of the amount of compensation.

The provisions of this section may enable a sanitary authority to counterclaim in respect of any breach of the regulations made under section 6 of the Allotments Act, 1887.

Compensation if not agreed upon to be settled by an arbitrator.

7. The landlord and tenant may agree upon the amount and time of payment of compensation to be paid under this Act. If in any case they do not so agree, the difference shall be settled by an arbitrator.

Appointment of arbitrator.

8. If the landlord and tenant concur they may within twenty-eight days after the determination of the tenancy jointly appoint such arbitrator. If they do not concur, such arbitrator shall be appointed in the following manner:—

(1) The landlord and tenant or either of them may apply personally or in writing to the justices of the peace, acting for the petty sessional division in which the holding is situated, in petty sessions, and such justices shall upon the receipt of the application appoint one of their number not being interested in the holding, or other competent person not being interested as aforesaid, to act as such arbitrator.

In the case of a rural authority it may happen that all the justices present at the petty sessions are *ex officio* members of the rural authority. As such they may possibly be said to be interested in the holding, and it may be advisable, therefore, that a justice who is such *ex officio* member should not be appointed under this section.

(2) If before award the person so appointed dies or becomes incapable of acting or for seven days after his appointment fails to act the justices shall appoint in manner aforesaid another arbitrator.

Justices if practicable to appoint person to act as arbitrator without remuneration.

9. The justices shall in all cases in which it is practicable obtain the consent of the arbitrator to act without remuneration, and in any case in which it is impracticable to obtain such consent they shall direct that the arbitrator shall be paid such moderate sum as they consider will reasonably remunerate him for his time and expenses.

Time for commencement of arbitration.

10. The arbitrator shall proceed to determine any difference referred to him under this Act within seven days after his appointment.

Section 11.

Power for arbitrator to administer oaths.

11. The arbitrator, if he shall consider it desirable or necessary so to do, shall have power to call for the production of any document which is in the possession of either party, or which either party can produce, and which to the arbitrator seems necessary for determination of the difference referred to him, and to take the examination of the parties and witnesses on oath and to administer oaths and take affirmations, and if any person so sworn or affirming wilfully and corruptly gives false evidence he shall be guilty of perjury.

Power to proceed in absence of either party.

12. The arbitrator may proceed in the absence of either party after notice given to both parties.

Form of award and time for its delivery.

13. The award shall be in writing signed by the arbitrator, and shall be ready for delivery within fourteen days after his appointment, or within such extended time not exceeding in the whole twenty-eight days after his appointment as the parties may agree upon in writing.

The arbitrator cannot himself extend the time. That must be done by the written agreement of the parties. It is to be observed that under section 10 the arbitrator must proceed to determine the matters in dispute within seven days, though he may deliver his award within fourteen days or within the extended time if any.

Costs of arbitration.

14. The costs (if any) of and attending the arbitration including the remuneration (if any) of the arbitrator shall be borne and paid by the parties in such proportion as to the arbitrator appears just, and the award may direct the payment of the whole or any part of the aforesaid costs by the one party to the other, or may declare that no costs shall be payable.

The arbitrator must himself determine the costs.

Day for payment.

15. The award shall fix a day not sooner than fourteen days after the delivery of the award for the payment of the money awarded for compensation, costs, or otherwise.

By section 8 (2) of the Allotments Act, 1887, *post*, the compensation is to be paid on demand, but this may refer only to compensation which is not in dispute. By the same section, sub-section 3, if proceedings are taken for the recovery of an allotment the court may stay delivery of possession until the compensation has been paid.

Award to be final.

16. The award shall be final and conclusive in every case; and neither the submission to arbitration nor the award shall be made a rule of any court, or be removable by any process into any court.

Section 17.

Recovery of compensation money.

17. Where any money agreed or awarded to be paid for compensation, costs, or otherwise, is not paid within fourteen days after the time when it is agreed or awarded to be paid, it shall be recoverable upon order made by the judge of the county court within the district of which the holding is situated, as money ordered to be paid by a county court under its ordinary jurisdiction is recoverable.

No claim to be made under the Agricultural Holdings (England) Act for any matter or thing for which a claim is made under this Act.

18. No claim for compensation shall be made under the Agricultural Holdings (England) Act, 1883, for any matter or thing in respect of which a claim for compensation is made under this Act, and in any case in which the provisions of that Act and of this Act conflict the provisions of this Act shall prevail.

The Allotments Act, 1887, section 8, provides that where proceedings are taken for the recovery of an allotment the tenant may elect to have his compensation determined under this Act or under the Agricultural Holdings Act, 1883.

THE OPEN SPACES ACT, 1887.

50 & 51 VICT. CHAP. 32.

An Act for extending certain Provisions of the Metropolitan Open Spaces Acts, 1877 and 1881, with Amendments, to Sanitary Districts throughout England, Wales, and Ireland; and for other purposes. [23rd August, 1887.]

40 & 41 Vict. c. 35. 44 & 45 Vict. c. 34.

WHEREAS by the Metropolitan Open Spaces Acts, 1877 and 1881 (herein called the principal Acts), certain facilities were provided for making available the open spaces and burial grounds in the Metropolis for the use of the inhabitants thereof for exercise and recreation, and it is expedient to provide facilities for making available open spaces and burial grounds in all sanitary districts in England, Wales, and Ireland, for the like use of the inhabitants thereof, and to make other provisions for the purpose aforesaid, and also to amend the Metropolitan Open Spaces Act, 1881, and the Disused Burial Grounds Act, 1884:

47 & 48 Vict. c. 72.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and

Temporal, and Commons, in this present Parliament assembled and by the authority of the same, as follows: Preamble.

The Metropolitan Open Spaces Act, 1881, 44 & 45 Vict. c. 34, is set out *ante*, p. 83, and the Disused Burial Grounds Act, 1884, 47 & 48 Vict. c. 72, *ante*, p. 340.

1. In this Act, unless the context otherwise requires, the expression "urban sanitary district" and the expression "urban authority" respectively, and the expressions "rural sanitary district" and "rural authority" respectively shall have the meanings assigned to them respectively by the Public Health Act, 1875. Interpretation. 38 & 39 Vict. c 55.

The rural authority are the guardians of the union. See the Public Health Act, 1875, s. 9.

2.—(1) The Metropolitan Open Spaces Act, 1881, is hereby repealed to the extent mentioned in the Schedule to this Act, and the second section of the said Act is hereby amended, as follows (that is to say), the purchase money paid for or in respect of the purchase of any open space as therein mentioned shall be held in trust, either as in the said section mentioned, or as the case may be, for the benefit of the objects to which any rates previously imposed in respect of such open space had been applied. Amendment of 44 & 45 Vict. c. 34.

The effect of these amendments has been stated at pp. 83, 84, 87, and 90, *ante*.

(2) The playing of any games or sports shall not be allowed in any churchyard, cemetery, or burial ground in or over which any estate, interest, or control is acquired under section five of the Metropolitan Open Spaces Act, 1881.

Provided that—

(*a*) In the case of consecrated ground, the bishop, by any license or faculty granted under the Metropolitan Open Spaces Act or this Act, and

(*b*) In the case of any churchyard, cemetery, or burial ground which is not consecrated, the body from which any such estate, interest, or control as aforesaid is acquired

may expressly sanction any such use of the ground, and may specify any conditions as to the extent or manner of such use.

See the section referred to and the amendment made by the text, *ante*, p. 90.

Section 3.

Provision as to removal of tombstones and monuments.

3. In the case of any disused churchyard, cemetery, or burial ground, at least three months before any tombstone or monument is moved, the following steps shall be taken :

(*a*) A statement shall be prepared sufficiently describing by the name and date appearing thereon the tombstones and monuments standing or being in the ground, and such other particulars as may be necessary ;

(*b*) Such statements shall be deposited with the clerk of the board or vestry, and shall be open to inspection by all persons ;

(*c*) An advertisement of the intention to remove or change the position of such tombstones and monuments shall be inserted three times at least in some newspaper circulating in the neighbourhood of the burial ground, and such advertisement shall give notice of the deposit of such statement as is hereinbefore described, and of the hours within which the same may be inspected ;

(*d*) A notice in terms similar to the advertisement shall be placed on the door of the church (if any) to which such churchyard, cemetery, or burial ground is attached, and shall be delivered or sent by post to any person known or believed by the board or vestry to be a near relative of any person whose death is recorded on any such tombstone or monument.

In the case of any consecrated ground no application for a faculty shall be made until the expiration of one month at least after the appearance of the last of such advertisements as aforesaid.

Provided that on any application for a faculty, nothing shall prevent the bishop from directing or sanctioning the removal of any tombstone or monument if he is of opinion that reasonable steps have been taken to bring the intention to effect such removal to the notice of some person having a family interest in such removal.

Amendment of 47 & 48 Vict. c. 72.

4. In the Disused Burial Grounds Act, 1884, and this Act, the expression "burial ground" shall have the same meaning as in the Metropolitan Open Spaces Act, 1881, as amended by this Act, and the expression "disused burial ground" shall mean any burial ground which is no longer used for interments, whether or not such ground shall have been partially or wholly

closed for burials under the provisions of any statute or Order in Council, and the expression "building" shall include any temporary or moveable building. Section 4.

The above definitions have been already noticed. See the note to 44 & 45 Vict. c. 34, s. 1, *ante*, p. 84.

Extension of certain provisions of Metropolitan Open Spaces Acts to urban and certain rural sanitary districts.

5. All the provisions of the principal Acts as amended by this Act (except sections four, five, six, seven, and eight of the Metropolitan Open Spaces Act, 1877, and so much of section six of the Metropolitan Open Spaces Act, 1881, as begins with the words "bye-laws made under this Act" and ends with the figures "1855," and also except sections ten, eleven, twelve, and thirteen of the last-mentioned Act,) shall extend and be applicable to and in respect of any and every urban sanitary district, and any and every rural sanitary district in respect of which the sanitary authority shall have been invested by an order of the Local Government Board with the powers of this Act, and to the open spaces and burial grounds in such districts respectively; and for the purpose of such extension and application to every such district, every urban authority and every such rural authority shall have and may exercise, and there shall be vested in such authority in and for its district, all and every or any such powers, authorities, and capacities in respect of, or in relation to, open spaces or burial grounds within such district as the Metropolitan Board of Works, herein called the Metropolitan Board, by virtue of the principal Acts as amended by this Act have or may exercise or enjoy with regard to open spaces or burial grounds within the Metropolis, or any of them; and for the purposes of this Act and in respect of any and every open space or burial ground within any such sanitary district, and of any and every such authority, the principal Acts shall be read and take effect as if the word "Metropolis" when used therein meant the same sanitary district, and as if the word "Metropolitan Board" and "Board" when used therein meant the sanitary authority of the same district, and as if the words "any two or more London daily papers," whenever they occur therein, meant "any two or more local newspapers circulating within the sanitary district.

The provisions of the Metropolitan Open Spaces Act, 1877, 40 & 41 Vict. c. 35, thus applied by the text to urban and rural sanitary districts consist of sections 1—3. Section 1 enables the Metropolitan Board of Works (now the London County Council) to acquire and hold open spaces for the benefit of the public, and to make bye-laws for their regulation. Section 2 enables the owners and occupiers of houses in whom may become vested the property and right of user of open spaces to convey to the (London County Council) the right to enter and use such open spaces

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subject to such terms and conditions as may be agreed upon. Section 3 enables the (London County Council) to make such provision as may be necessary for maintaining and protecting the open spaces so acquired by them.

The incorporated sections of 44 & 45 Vict. c. 34, have already been set out, *ante*, p. 83.

It will be remembered that the London County Council now exercises the functions of the Metropolitan Board of Works: 51 & 52 Vict. c. 41, s. 40 (8).

Extension of 40 & 41 Vict. c. 35, to vestries and district boards.

6. All powers and duties conferred upon the Metropolitan Board by the Metropolitan Open Spaces Act, 1877, may, after the passing of this Act, be exercised and performed by any vestry or district board of works for the parishes and districts specified in Schedules A. and B. of the Metropolis Management Act, 1855, as amended by subsequent Acts.

Power of corporation to make free gift of land for open space.

7. Any corporation other than municipal corporations or body of persons having power, either with or without the consent of any other corporation or body of persons, to sell land belonging to such corporation or body may, but with the like consent (if any), convey, for valuable or nominal consideration or by way of gift, to any urban or rural authority such land, or any part thereof, for the purpose of the same being preserved as an open space for the enjoyment of the public, and may so convey the same with or without conditions, and the urban or rural authority may accept such open space, and, if conditions are imposed, subject to such conditions, and such open space shall be deemed to be an open space within the meaning of the principal Acts and this Act.

Where a corporation having power under this section to convey land are themselves the urban or rural authority, this section shall enable such authority to appropriate their land for an open space, and shall, with the necessary modifications, apply to such appropriation in like manner as it applies to the conveyance.

Expenses.

8.—(1) All expenses incurred under this Act by an urban or a rural authority shall be deemed to have been incurred in the execution of the Public Health Act, 1875, and shall be defrayed accordingly, and the purposes of this Act shall be deemed to be the purposes of the Public Health Act, 1875.

(2) Provided that the expenses incurred by a rural authority shall be deemed to be special expenses under that Act incurred in respect of the contributory place or places for which the powers of this Act are exercised, and all the provisions of the

Public Health Act, 1875, which would be applicable in the case of an apportionment of special expenses for works for the common benefit of two or more contributory places, shall apply to any such expenses. Section 8.

9. This Act shall not extend to any land belonging to Her Majesty in right of Her Crown or of Her Duchy of Lancaster, or to any garden or ornamental ground for the time being under the management of the Commissioners for the time being of Her Majesty's Works and Public Buildings. Saving for Crown lands.

10. All the provisions with respect to bye-laws contained in sections one hundred and eighty-two to one hundred and eighty-six (both inclusive) of the Public Health Act, 1875, shall apply to all bye-laws from time to time made by an urban or rural authority under the powers of this Act, and the penalties imposed by any such bye-laws may be recovered in a summary manner. Bye-laws.

Bye-laws are made under 40 & 41 Vict. c. 35, s. 1 (see the note to section 5, *ante*), and 44 & 45 Vict. c. 34. s. 6, *ante*, p. 90. They must be confirmed by the Local Government Board and published in manner provided by section 185 of the Public Health Act, 1875.

11. The Metropolitan Board or the sanitary authority may exercise all the powers given to them by the Metropolitan Open Spaces Act, 1881, or this Act respecting open spaces, churchyards, cemeteries, and burial grounds transferred to them in pursuance of the said Act or of this Act in respect of any open spaces, churchyards, cemeteries, and burial grounds of a similar nature which are or shall be vested in them in pursuance of any other statute, or of which they are otherwise the owners. Power over open spaces already vested in sanitary authority.

For the Metropolitan Board read the London County Council: 51 & 52 Vict. c. 41, s. 40 (8).

A cemetery may belong to a sanitary authority by reason of its having been provided by them under the Public Health (Interments) Act, 1879, *ante*, p. 13.

12. The Metropolitan Board may purchase or take on lease, lay out, plant, improve, and maintain lands for the purpose of being used as public walks or pleasure grounds, and may support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever. Power of Metropolitan Board with respect to public walks or pleasure grounds.

The power thus conferred upon the London County Council (see the note to the last section) is similar to that which urban authorities possess under section 164 of the Public Health Act, 1875.

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Extension of Acts to Ireland. 41 & 42 Vict. c. 52.

13. The principal Acts and this Act shall apply to Ireland subject to the following provisions :

In the said Acts—

References to the Public Health Act, 1875, shall be construed as references to the Public Health (Ireland) Act, 1878, and the reference to sections one hundred and eighty-two to one hundred and eighty-six of the first-mentioned Act shall be construed as referring to sections two hundred and nineteen to two hundred and twenty-three of the latter Act.

Reference to any private or local Act of Parliament shall be construed so as to include any Act of the Parliament of Ireland.

References to a "vestry," "district board," "corporation," or "Metropolitan Board" shall be construed as references to the sanitary authority.

References to the London daily papers shall be construed as references to any newspapers, daily or weekly, circulating within the district of the sanitary authority.

References to Her Majesty's Council shall be construed as references to Her Majesty's Privy Council in Ireland.

References to the Local Government Board shall be construed as references to the Local Government Board for Ireland.

23 & 24 Vict. c. 106. 14 & 15 Vict. c. 70. 23 & 24 Vict. c. 97. 27 & 28 Vict. c. 71. 31 & 32 Vict. c. 70.

References to the Lands Clauses Act, 1845, shall be construed as references to that Act, as amended by the Lands Clauses Consolidation Acts Amendment Act, 1860, the Railways (Ireland) Act, 1851, the Railways (Ireland) Act, 1860, the Railways (Ireland) Act, 1864, and the Railways Traverse Act.

Nothing contained in the principal Acts or in this Act shall apply to any land for the time being under the management of the Commissioners of Public Works in Ireland, or belonging to the Benchers of the King's Inns in Dublin.

Short title and construction.

14. This Act may be cited as the Open Spaces Act, 1887, and may be read with the principal Acts as one Act.

SCHEDULE.

Schedule.

Portions of the Metropolitan Open Spaces Act, 1881, repealed.

In section one, the following words occurring in the definition of an "open space," viz., "but shall not include any enclosed land which has not a public road or footpath completely round the same."

In the same section, the following words occurring in the definition of a "burial ground," viz., "and in which interments have taken place since the year 1800."

In the second paragraph of section five, the words, "but such metropolitan board, vestry, or district board shall not allow the playing of any games or sports therein."

THE PUBLIC WORKS LOANS ACT, 1887.

50 & 51 VICT. CHAP. 37.

An Act to grant money for the purpose of certain Local Loans; and for other purposes relating to Local Loans.

[16th September, 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Public Works Loans Act, 1887. Short title.

* * * * *

4. Whereas under section seven of the Public Works Loans Act, 1882, provision may be made for enabling any rating authority as therein defined to charge any fund or rate under their control for the purpose of aiding a public body in raising a loan for the construction of a harbour, pier, or other similar works, and it is expedient to extend the provisions of that section to certain other rating authorities: Be it therefore enacted that the expression "rating authority" as defined in that section shall include:— Power for certain local authorities to guarantee harbour loans. 45 & 46 Vict. c. 62.

(1) As regards England:—

(*a*) any authority being a rural sanitary authority under the Public Health Act, 1875, and the Acts amending the same; and 38 & 39 Vict. c. 45.

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(*b*) any justices in quarter sessions assembled and any representative county body which may be hereafter created by Act of Parliament.

(2) As regards Scotland :—

30 & 31 Vict. c. 101.

(*a*) any local authority under the Public Health (Scotland) Act, 1867, and the Acts amending the same ; and

(*b*) the Commissioners of Supply of counties, and any representative county body which may be hereafter created by Act of Parliament.

(3) As regards Ireland :—

41 & 42 Vict. c. 52.

(*a*) any authority being a rural sanitary authority under the Public Health (Ireland) Act, 1878, and the Acts amending the same ; and

(*b*) any grand jury making a presentment which has been previously sanctioned at presentment sessions, and any representative county body which may be hereafter created by Act of Parliament.

The 45 & 46 Vict. c. 62, s. 7, provides that when a provisional order is made under the General Pier and Harbour Act, 1861, 24 & 25 Vict. c. 45, and such order authorises any public body to raise a loan for the construction of any works as defined by that Act in any place, the same or any other order may authorise any rating authority in that place, subject to the conditions specified in the order, to charge, if they think it expedient for the inhabitants at large of such place, any fund or rate under their control for the purpose of aiding the public body in raising the said loan or any part thereof from the Public Works Loans Commissioners, and to give such aid by guaranteeing the principal and interest of the loan or by borrowing the sum required and advancing it to the public body, or partly in one way and partly in the other, or otherwise in manner provided by the order. The resolution of the rating authority must be a special one passed at one meeting, published as described by the order, and confirmed at a subsequent meeting. The promoters of the undertaking must, a reasonable time before applying for the order, submit to the Local Government Board a statement of the proposal, and if that board declare that in their opinion, having regard to the financial condition of the rating authority, or to the necessity for such rating authority to provide a water supply or drainage for the inhabitants of the said place, or otherwise to fulfil the original duties of such authority, it is expedient to burden such authority with any such charge as is mentioned in such proposal, the Board of Trade in settling such order shall omit any provision conferring power on the rating authority under the section.

Under the Act of 1882 a rating authority in England was defined to mean an urban sanitary authority. It is now extended to rural sanitary authorities and county councils.

* * * * *

Preamble.

THE ALLOTMENTS ACT, 1887.

50 & 51 VICT. CHAP. 48.

An Act to facilitate the provision of Allotments for the Labouring Classes. [16th September, 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Allotments Act, 1887. Short title.

2.—(1) On a representation in writing to the sanitary authority of any urban or rural district by any six registered parliamentary electors or ratepayers resident, in the case of an urban district, in that district, and, in the case of a rural district, in some parish in that district, that the circumstances of the urban district or parish are such that it is the duty of the sanitary authority to take proceedings under this Act therein, the sanitary authority shall take such representation into consideration. Duty of sanitary authority to acquire land for allotments.

If the sanitary authority of any urban or rural district are of opinion, either after inquiry made in consequence of such representation or otherwise, that there is a demand for allotments for the labouring population in such urban district, or in any parish in such rural district, and that such allotments cannot be obtained at a reasonable rent and on reasonable conditions by voluntary arrangement between the owners of land suitable for such allotments, and the applicants for the same, the sanitary authority, subject to the provisions of this Act, shall by purchase or hire acquire any suitable land which may be available, whether within or without their district or the said parish, adequate to provide a sufficient number of allotments, and shall let such land in allotments to persons belonging to the labouring population resident in the said district or parish and desiring to take the same.

The Act contains no definition of a ratepayer. In a rural district it will mean a person assessed to the poor rate. In an urban district it may mean a person assessed to the poor rate or the general district rate; but as the same persons are or should be assessed to both rates, the difficulty is of little practical importance.

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The provision in the latter paragraph of the sub-section is imperative. The conditions are (1) that there is a demand, and (2) that suitable land cannot be obtained at a reasonable rent by voluntary arrangement.

The land need not be within the district or parish; but it is evident that it should be in the immediate neighbourhood.

Allotments are only to be provided for the labouring population. Section 6 enables the authority to make regulations defining the persons eligible to be tenants of allotments. They must, however, be resident in the district or parish.

(2) A sanitary authority shall not under this Act acquire land for allotments save at such price or rent that in the opinion of the sanitary authority all expenses, except such expenses as are incurred in making roads to be used by the public, incurred by the sanitary authority in acquiring the land and otherwise in relation to the allotments may reasonably be expected to be recouped out of the rents obtained in respect thereof.

For the purpose of this section, the expression "reasonable rent" means the rent, exclusive of rates, taxes, and tithe rent-charge which a person taking an allotment might reasonably be expected to pay, taking one year with another, to a landlord, having regard to the value of similar land in the neighbourhood, to the extent and situation of the allotment, to the expenses of adapting the land to the purposes of the allotment, and to the repairs and other outgoings payable by the landlord, and to the cost and risk of collecting the rents of, and otherwise managing allotments.

Section 5, *post*, enables the sanitary authority to make roads.

The definition in the text of the expression "reasonable rent" is very similar to that of net annual value for rating purposes. But the rent must be something more than the net annual value, seeing that regard must be had to the expenses of adaptation, repairs, and costs of collection and management.

Acquisition of land for purpose of Act.
38 & 39 Vict. c. 55.
8 & 9 Vict. c. 18.

3.—(1) For the purposes of the purchase of land by agreement by a sanitary authority for allotments, section one hundred and seventy-eight of the Public Health Act, 1875, and the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, shall be incorporated with this Act, except the provisions with respect to the purchase and taking of land otherwise than by agreement, and with respect to the provision to be made for affording access to the special Act.

Section 178 of the Public Health Act, 1875, relates to land belonging to the Duchy of Lancaster.

(2) If a sanitary authority are unable by hiring or purchase by agreement to acquire suitable land sufficient for allotments under this Act for any district or parish at a reasonable price or rent and subject to reasonable conditions, such authority may

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petition the county authority of the county in which the district or parish is situate, and the county authority (after such inquiry and procedure as provided in the sections herein-after incorporated in this Act) may make a provisional order authorising the sanitary authority to put in force, as respects the land mentioned in the order, the provisions of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same with respect to the purchase and taking of land otherwise than by agreement.

The county authority is now the county council. See section 16, *post*, but it is provided by the Local Government Act, 1888, s. 34 (7), that the powers and duties of the county authority under the Allotments Act, 1887, shall, as respects a county borough, continue to be exercised and performed by the Local Government Board.

(3) The Local Government Board, on the application of any county authority, shall introduce into Parliament a Bill confirming provisional orders made under this Act by such county authority, and the sanitary authority petitioning for the order shall be considered as the promoters of such order.

In a county borough where the county authority are the Local Government Board (see the note to the preceding sub-section), no application will be necessary.

(4) For the purpose of the purchase of land under this section otherwise than by agreement, sections one hundred and seventy-six, two hundred and ninety-six, and two hundred and ninety-seven of the Public Health Act, 1875, shall, so far as consistent with the tenour of this Act, be incorporated with this Act, and apply as if they were herein re-enacted, with the substitution of "the county authority" for "the Local Government Board," and of "any officer of the county authority appointed for the purpose of an inquiry" for "inspectors of the Local Government Board."

Provided that—

(*a*) Any question of disputed compensation shall be referred to the arbitration of a single arbitrator appointed by the parties, or if the parties do not concur in the appointment of a single arbitrator, then, on the application of either of them, by the Local Government Board, and the remuneration to be paid to the arbitrator appointed by the Local Government Board shall be fixed by that Board:

(*b*) If an arbitrator appointed for the purposes of this Act dies or becomes incapable to act before he has made his

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award, or fails to make his award within two months after he is appointed, his appointment shall determine, and the determination of the compensation shall be referred to another arbitrator appointed in like manner as if no arbitrator had been previously appointed: Provided always, that the same arbitrator may be re-appointed:

(*c*) An arbitrator appointed under this section shall be deemed to be an arbitrator within the meaning of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, and the provisions of those Acts with respect to an arbitration shall apply accordingly; and, further, the arbitrator, notwithstanding anything in the said Acts, shall determine the amount of the costs and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.

The sections referred to in the text, relate as here applied to the powers of the officers appointed to hold inquiries, and to provisional orders.

(5) In construing for the purposes of this section any section or Acts incorporated with this section, this Act, together with any Act confirming a provisional order under this section, shall be deemed to be the special Act, and the sanitary authority shall be deemed to be the local authority or the promoters of the undertaking, as the case requires, and the word "land" shall have the same meaning as in this Act.

For the definition of "land," see section 17 of this Act, *post*.

(6) Where land is purchased by a sanitary authority under this Act otherwise than by agreement, the following provisions shall apply:

(*a*) The county authority shall not make a provisional order for purchasing any park, garden, pleasure-ground, or other land required for the amenity or convenience of any dwelling-house, or any land the property of a railway or canal company which is or may be required for the purposes of their undertaking:

(*b*) The county authority shall, in making a provisional order for purchasing land, have regard to the extent of land held in the neighbourhood by any owner and to the

convenience of other property belonging to the same owner, and shall so far as is practicable avoid taking an undue or inconvenient quantity of land from any one owner.

(7) For the purpose of the hiring of land by a sanitary authority for allotments, any person or body of persons or body corporate authorised to sell land to the sanitary authority for the purposes of this Act may, without prejudice to any other power of leasing, lease land to the sanitary authority, without any fine or premium, for a term not exceeding thirty-five years.

(8) The county authority shall not make a Provisional Order for purchasing any right to coal or metalliferous ore.

Costs to be awarded in certain cases.

4. Where any Bill for confirming a Provisional Order made under this Act is referred to a committee of either House of Parliament upon the petition of any person opposing such Bill, the committee shall take into consideration the circumstances under which such opposition is made to the Bill, and whether such opposition was or was not justified by the circumstances, and shall award costs accordingly to be paid by the promoters or the opponents of the Bill, as the committee may think just.

Any costs under this section may be taxed and recovered in the manner in which costs may be taxed and recovered under the twenty-eighth and twenty-ninth Victoria, chapter twenty-seven. 28 & 29 Vict. c. 27.

The decision of the majority of the members of the committee for the time being present and voting on any question under this section shall be deemed to be the decision of the committee.

Costs must be given to one party or another. The provision is imperative.

The 28 & 29 Vict. c. 27, referred to above, is intituled "An Act for awarding costs in certain cases of private bills."

Improvement and adaptation of land for allotments

5. The sanitary authority may improve any land acquired by them under this Act, and adapt the same for letting in allotments, by draining, fencing, and dividing the same, acquiring approaches, making roads, and otherwise, as they think fit, and may from time to time do such things as may be necessary for maintaining such drains, fences, approaches, and roads, or otherwise for maintaining the allotments in a proper condition.

These improvements except the making of public roads have to be taken into account under section 2 (2), *ante*, in estimating whether the sanitary authority can provide allotments without loss.

Section 6. Management of allotments.

6.—(1) Subject to the provisions of this Act, the sanitary authority may from time to time make, revoke, and vary such regulations as appear to be necessary or proper for regulating the letting of allotments under this Act, and for preventing any undue preference in the letting thereof, and generally for carrying the provisions of this Act into effect; and such regulations may define the persons eligible to be tenants of such allotments, and the notices to be given for the letting thereof, and the size of the allotments, and the conditions under which they are to be cultivated, and the rent to be paid for them. Provided that all such regulations shall make provision for reasonable notice to be given to a tenant of any allotment of the determination of his tenancy. Provided also, that all regulations made under this section shall not be of any force unless and until they have been confirmed by the Local Government Board, in like manner and subject to the like provisions as in the case of bye-laws under the Public Health Act, 1875.

38 & 39 Vict. c. 55.

The persons eligible must belong to the labouring population. See section 7 (4), *post*. The provisions of the Public Health Act, 1875, as to the confirmation of bye-laws are contained in section 184 of that Act.

(2) All regulations for the time being in force under this section shall be binding on all persons whatsoever; and the sanitary authority shall cause them to be from time to time made known, in such manner as the sanitary authority think fit, to all persons interested, and shall cause a copy thereof to be given gratis to any inhabitant of the district or parish demanding the same.

An inhabitant need not be a ratepayer.

(3) Subject to the provisions of this Act, the sanitary authority may from time to time appoint, and when appointed, remove allotment managers of land acquired under this Act for allotments, and such allotment managers shall consist either partly of members of such authority and partly of other persons, or wholly of other persons, so that in either case such other persons be persons residing in the locality and contributing to the rate out of which the expenses under this Act are paid.

The qualification of managers is twofold. They must be resident. In an urban district they must be rated to the general district rate. In a rural district they must be rated to the special rate out of which the expenses of providing the allotments is paid. See section 10, *post*. For the disqualification of managers, see section 9, sub-section 10, *post*.

(4) The proceedings and powers of allotment managers shall be such as, subject to the provisions of this Act, may be

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prescribed from time to time by the sanitary authority; the allotment managers may be empowered by the sanitary authority to do anything in relation to the management of such allotments which the sanitary authority are authorised to do, and to incur expenses to such amount as the sanitary authority prescribe, and any expenses properly so incurred shall be deemed to be expenses of the sanitary authority under this Act.

Provisions as to letting and use of allotments.

7.—(1) The rents of the allotments shall be fixed at an amount not less than such as may reasonably be expected to ensure the sanitary authority from loss; but in calculating such loss any expenses incurred in an unsuccessful attempt to acquire land for allotments shall be excluded and, subject as aforesaid, such rents may be from time to time charged as are reasonable, having regard to the agricultural value of the land, and not more than a quarter's rent shall be required to be paid in advance in any case where it is deemed necessary by the sanitary authority to require the payment of rent in advance.

The local authority must, in fixing the rents, take into account the cost of actually providing the allotments which they seek to let, the cost of the land, and the cost of the improvements effected under section 5, *ante*.

(2) The sanitary authority shall, for the purposes of all rates, taxes, and tithe rentcharge, be deemed to be the occupiers of the allotments which are let, but they shall cause the sums from time to time paid by way of rates, taxes, and tithe rentcharge in respect of the allotments to be apportioned among them, and cause the sum so apportioned in respect of each allotment to be certified to the tenant thereof, and such sum shall be added to the rent otherwise payable by the said tenant in respect of such allotment, and shall be deemed to be part of such rent, and be recoverable accordingly: Provided always, that for the purposes of the parliamentary franchise, and the municipal and all other local franchises, the tenants shall be deemed to be the occupiers, and such rates to have been paid by them, notwithstanding the provisions herein-before contained.

The sanitary authority must pay the rates, &c., in the first instance. The rent, plus this addition, may be recovered under section 10, *post*.

(3) One person shall not hold any allotment or allotments acquired under this Act exceeding one acre, and an allotment shall not be sub-let.

(4) Provided that if at any time any allotment cannot be let in accordance with the provisions of this Act and the regulations, the same may be let to any person whatever at the best annual

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rent which can be obtained for the same, without any premium or fine, and on such terms as may enable the sanitary authority to resume possession thereof within a period not exceeding twelve months if it should at any time be required to be let under the provisions aforesaid.

(5) No building other than a toolhouse, shed, greenhouse, fowlhouse, or pigstye shall be erected on any part of any allotment, and if any building other than as aforesaid is so erected the sanitary authority shall forthwith pull down such building and sell and dispose of the materials thereof, and the proceeds of the sale shall be applicable in like manner as the rent of the allotment. If any building so allowed to be erected is erected upon an allotment, then at the end of the tenancy neither the sanitary authority nor the incoming tenant shall be bound to take any such building or pay any compensation therefor, but the outgoing tenant shall be at liberty, before the expiration of his tenancy, to remove the same, and, if he fails so to do, the sanitary authority may pull down the building and dispose of the materials, and apply the proceeds in like manner as if it were a building prohibited to be erected.

Observe that the local authority has no discretion with reference to any building—save those excepted in the text—erected on any allotment.

But for the provision in the sub-section, a tenant would have been entitled to compensation under 50 & 51 Vict. c. 26, s. 5, for any buildings permitted to be erected on the allotment.

(6) A tenant of an allotment may, before the expiration of his tenancy, remove any fruit and other trees and bushes planted or acquired by him, for which he has no claim for compensation.

Under 50 & 51 Vict. c. 26, s. 5, the tenant is entitled to compensation for fruit trees and fruit bushes planted with the written consent of the local authority. This provision enables him to remove other trees or bushes, or fruit trees and bushes planted without consent.

Recovery of rent and possession of allotments.

8.—(1) The rent for an allotment let in pursuance of this Act, and the possession of such allotment in the case of any notice to quit, or failure to deliver up possession of the same as required by law, may be recovered by the sanitary authority as landlords, in the like manner as in any other case of landlord and tenant.

This sub-section enables the local authority to distrain for rent. Possession may be recovered in the ordinary way by action, and also by proceedings before justices under 1 & 2 Vict. c. 74. It would appear that the tenant must be resident when the allotment is let to him, though he may afterwards reside within a mile of the district or parish.

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(2) If the rent for any allotment is in arrear for not less than forty days, or if it appears to the sanitary authority that the tenant of an allotment not less than three months after the commencement of the tenancy thereof has not duly observed the regulations affecting such allotment made by or in pursuance of this Act, or is resident more than one mile out of the district or parish for which the allotments are provided, the sanitary authority may serve upon the tenant, or if he is residing out of the district or parish, leave at his last known place of abode in the district or parish, or fix in some conspicuous manner on the allotment, a written notice determining the tenancy at the expiration of one month after the notice has been so served or affixed, and thereupon such tenancy shall be determined accordingly: Provided that in every such case the sanitary authority in default of agreement between the incoming and outgoing tenant shall on demand pay to the tenant whose tenancy is so determined any compensation due to him as an outgoing tenant; and such compensation shall be assessed by an arbitrator appointed by the sanitary authority, or, if the tenant so elect, either by an arbitrator appointed under the Allotments and Cottage Gardens Compensation for Crops Act, 1887, or by a reference under the Agricultural Holdings (England) Act, 1883. 50 & 51 Vict. c. 26. 46 & 47 Vict. c. 61.

Service must be personal if the tenant resides in the district or parish.

If the compensation referred to has to be determined it cannot be paid on demand. Only agreed compensation can be so paid.

(3) Upon the recovery of an allotment from any tenant, the court or justice directing the recovery may stay delivery of possession until payment of the compensation, if any, due to the outgoing tenant has been made or secured to the satisfaction of the court or justice.

Election of allotment managers.

9.—(1) Where allotments have been provided under this Act for a parish in any rural district, a petition to the sanitary authority may be presented by a number of the electors of allotment managers in such parish, not being less than one-sixth of the whole number of such electors, praying for the election of allotment managers in such parish, and thereupon the sanitary authority shall order such election, and the allotment managers so elected shall be the allotment managers of the allotments in such parish in lieu of allotment managers appointed by the sanitary authority, who, on an election under this Act, shall cease to hold office.

The provisions of this sub-section apply only in a rural district, and not in an urban district.

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An election of managers will not alter the powers and duties of the managers; these will still be prescribed by the rural authority under section 6, sub-sect. (4), *ante*, p. 486.

(2) The first election shall be held on such day as may, subject to the regulations hereafter mentioned, be fixed by the said authority.

(3) The number of allotment managers in each case shall be such (not being less than three nor more than five) as the sanitary authority may fix, and the quorum shall be three, or, if the number of managers is less than five, be two.

(4) The allotment managers shall retire triennially on such day as may be prescribed by the regulations hereinafter mentioned, and the allotment managers first elected shall retire on the day for retirement which occurs next after the expiration of three years after the day fixed for their election.

(5) Any casual vacancy among the allotment managers which occurs by death, resignation, disqualification, or otherwise, may, if there remains a quorum of allotment managers, be filled up by such managers, but the person elected to fill the vacancy shall hold office only for the same time as the vacating manager would have done.

(6) If at any time by reason of a failure of election, either by electors or allotment managers, or of any other cause, there is no allotment manager, or no quorum of allotment managers in any parish, the sanitary authority shall appoint allotment managers under this Act in that parish, and shall continue to appoint the same until another petition for the election of allotment managers is presented under this section.

(7) The electors of allotment managers shall be the parliamentary electors in the parish, that is to say, the persons registered in any list of parliamentary electors for the parish as entitled to vote at an election of a member to serve in Parliament, and an elector shall not give more than one vote for any candidate nor vote for more candidates than the number to be elected.

The provision in this sub-section is a novel one. The electors will not be the same body as those electing the guardians, and there will be no plurality of votes nor any cumulative vote. Thus, if five managers are to be elected each voter may give one vote to each of five persons.

(8) The election of allotment managers shall be held at such time, and in such manner, and in accordance with such regulations as the Local Government Board may from time to time by order prescribe; and the Local Government Board may make regulations respecting the duties of the returning officer, and the

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expenses of the election, and may do and make regulations respecting all such things as appear to them necessary or proper for carrying into effect this section, whether preliminary or incidental to such election, and for applying to such election any enactments respecting offences at the election of guardians, and may revoke or alter any previous order under this section: Provided as follows:—

(*a*) Such guardian or overseer of the parish, or other person as the sanitary authority may appoint, shall be the returning officer;

(*b*) A poll, if demanded, shall be taken by ballot, and the said regulations shall provide for the application to such poll of the Ballot Act, 1872, including the provisions for punishing offences; 35 & 36 Vict. c. 33.

(*c*) The poll shall be held on one day only, and shall close at eight o'clock in the evening, and shall be open for at least the period from five to eight o'clock in the evening;

(*d*) The returning officer shall not vote except in the case of an equality of votes between any candidates, in which case he shall have a casting vote;

(*e*) Any ballot boxes, instruments, fittings, and compartments provided by any public authority for parliamentary, municipal, or school board elections, or belonging to any public authority for the purpose of elections, shall be lent to the returning officer on his request for the purpose of an election of allotment managers, under such conditions and either free of charge or for such reasonable charge as may be prescribed by regulations under this section;

(*f*) The returning officer may, except during ordinary school hours, use free of charge for the purpose of an election under this section any room in a school receiving a grant out of moneys provided by Parliament, and any room the expense of maintaining which is payable out of any rate in the parish, but he shall make good any damage done to the room, and defray any expense incurred by the person or body of persons, corporate or unincorporate, having control over the room, on account of its being so used.

All or any of the sections of the Municipal Elections (Corrupt Practices) Act, 1884, *ante*, p. 292, may be applied to an election of managers.

The poll need not be open before five o'clock.

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(9) An election under this section shall not be questioned except in such manner as may be prescribed by regulations under this section, and the regulations may apply to such election any enactments respecting the questioning of an election of guardians.

The Local Government Board may therefore apply the provisions of 5 & 6 Vict. c. 57, which enables them to decide any question of disputed election, or they may apply the provisions of the Municipal Elections (Corrupt Practices) Act, 1884, which enables any person to contest the validity of an election by means of an election petition.

(10) If an allotment manager is punished with imprisonment for any crime, or is adjudged a bankrupt, or enters into a composition or arrangement with his creditors, or ceases to reside in, or in the neighbourhood of, the parish, or absents himself for twelve months from all meetings of the allotment managers, except for temporary illness or other cause, to be approved by such managers, or is a tenant of any allotment under the management of the managers, he shall cease to be an allotment manager, and his office shall be vacant, and a person who, if elected, would by virtue of this enactment cease, otherwise than by reason of absence from meetings, to be a manager, shall not be qualified to be elected a manager, but, save as aforesaid, any retiring manager shall be eligible for re-election.

Summary convictions are included in the words of the sub-section.

By section 6, sub-sect. (3), *ante*, p. 486, a manager must be resident in the parish. But if so qualified when elected, he is not to be disqualified when he ceases to be resident, provided he still resides in the neighbourhood.

Expenses and receipts.

10.—(1) All expenses incurred by a sanitary authority under this Act, including allowances to officers of such authority for duties under this Act, shall be defrayed—

38 & 39 Vict. c. 55.

(*a*) in the case of an urban sanitary authority as part of the general expenses of their execution of the Public Health Act, 1875; and

(*b*) In the case of a rural sanitary authority as special expenses incurred in the execution of the Public Health Act, 1875, and such expenses shall be charged to the parish on account of which the land was acquired.

(2) Section two hundred and ninety-eight of the Public Health Act, 1875, with respect to costs of Provisional Orders, shall apply to costs incurred by a sanitary authority in relation to Provisional Orders under this Act.

Section 298 of the Public Health Act, 1875, provides that the reasonable costs in respect of a provisional order and of the inquiry preliminary

thereto, as sanctioned by the Local Government Board, whether in promoting or opposing the same, shall be deemed to be expenses properly incurred by the local authority, and, if thought expedient by the Local Government Board, the local authority may contract a loan for the purpose of defraying such costs. [Section 10. NOTE.

(3) All sums received by a sanitary authority in respect of any land acquired under this Act, otherwise than from any sale or exchange, shall be applied in aid of the expenses incurred by them in respect of such land, and so far as they are not required for the payment of those expenses, shall be applied in aid of the general and special expenses above in this section mentioned, and in the case of a rural sanitary authority shall be credited to the parish on account of which the land was acquired.

(4) The sanitary authority may borrow for the purposes of acquiring, improving, and adapting land under this Act in like manner and subject to the like conditions as for the purpose of defraying the above-mentioned general and special expenses; and all sums payable by the sanitary authority in respect of principal or of interest on any money so borrowed shall be defrayed in manner provided by this section respecting expenses incurred under this Act in respect of such land.

(5) Sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine both inclusive, of the Public Health Act, 1875, relating to borrowing by a local authority, and sections two hundred and forty-two and two hundred and forty-three of the same Act, relating to loans by the Public Works Loan Commissioners to a local authority, shall apply to a loan for the purposes of this Act to a sanitary authority in like manner as if they were herein re-enacted and in terms made applicable thereto. 38 & 39 Vict. c. 55.

(6) Separate accounts shall be kept of the receipts and expenditure under this Act of the sanitary authority and their officers and of allotment managers and other persons acting under this Act, and such accounts shall be audited in like manner, and with the like incidents and consequences, as the accounts of the other receipts and expenditure of the sanitary authority and their officers under the Public Health Act, 1875, and in the case of allotment managers and other persons as the accounts of officers of the sanitary authority.

11.—(1) Where the sanitary authority are of opinion that any land acquired by them in pursuance of this Act or any part thereof is no longer needed for the purpose of allotments, or Sale of superfluous or unsuitable land.

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that any other land more suitable for such purpose is available, they may, with the sanction of the county authority, sell or let such land or part, or exchange the same for other land more suitable for the said purpose, and may pay or receive money for equality of exchange.

(2) The proceeds of a sale under this section, and any money received by the sanitary authority on any such exchange as aforesaid by way of equality of exchange, shall be applied in discharging, either by way of a sinking fund or otherwise, the debts and liabilities of the sanitary authority in respect of the land acquired under this Act, or in acquiring, adapting, and improving other land for allotments under this Act, and any surplus remaining may be applied for any purpose for which capital money may be applied, and which is approved by the Local Government Board; and the interest thereon (if any), and any money received from the letting of the land, may be applied in acquiring other land for allotments, or shall be applied in like manner as receipts from allotments under this Act are applicable: Provided that any such proceeds, surplus, interest, and money shall, in the case of a rural sanitary district, be credited to or applied for the benefit of the parish for which the land was purchased.

(3) Sections one hundred and twenty-eight to one hundred and thirty-two (both inclusive) of the Lands Clauses Consolidation Act, 1845 (relating to the right of pre-emption of superfluous lands), shall apply upon any sale by a sanitary authority in pursuance of this section of any land, whether because it is no longer needed for the purpose of allotments, or because other land more suitable for the purpoes is available, but save as aforesaid, the provisions of the Lands Clauses Consolidation Act, 1845, with respect to the sale of superfluous lands, shall not be deemed to be incorporated in this Act, or in any Provisional Order made under this Act.

The owners from whom the land has been acquired in the first instance will thus have the right of pre-emption.

Power to make scheme for provision of common pasture.

12. Where it appears to any sanitary authority that, as regards their district, if urban, or any parish in their district, if rural, land can be acquired for affording common pasture at such price or rent that all expenses incurred by the sanitary authority in acquiring the land and otherwise in relation to the land when acquired may reasonably be expected to be recouped

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out of the charges paid in respect thereof, and that the acquisition of such land is desirable in view of the wants and circumstances of the labouring population, such sanitary authority may submit to the county authority for the county in which the district or parish is wholly or partly situate a scheme for providing such common pasture, and the county authority, if satisfied of the expediency of such scheme, may by order authorise the sanitary authority to carry it into effect, and upon such order being made this Act shall, with the necessary modifications, apply in like manner as if "allotments" in this Act included common pasture, and "rent" included a charge for turning out an animal.

Provided that the regulations made under this Act may extend to regulating the turning out of animals on the common pasture, to defining the persons entitled to turn them out, the number to be turned out, and the conditions under which animals may be turned out, and fixing the charges to be made for each animal, and otherwise to regulating the common pasture.

Upon obtaining the order mentioned in the text, the local authority may proceed to acquire land for common pasture in the same way as they can acquire land for allotments under the Act.

Power for allotment wardens or allotment trustees to transfer to sanitary authority. 8 & 9 Vict. c. 119.

13.—(1) The allotment wardens under the Inclosure Act, 1845, and the Acts amending the same, having the management of any land appropriated under the said Acts, either before or after the passing of this Act, for allotments or field gardens for the labouring poor of any place, may by agreement with any sanitary authority within whose district such place is wholly or partly situate, transfer the management of such land to the sanitary authority, upon such terms and conditions as may be agreed upon with the sanction, as regards the said allotment wardens, of the Land Commissioners for England, and thereupon such land shall vest in the sanitary authority.

The powers of the Land Commissioners under this section are now transferred to the Board of Agriculture by 52 & 53 Vict. c. 30.

45 & 46 Vict c. 80.

(2) All trustees within the meaning of the Allotments Extension Act, 1882, required or authorised by that or any other Act to let lands in allotments to cottagers, labourers, journeymen, or others in any place may, if they think fit, in lieu of letting such land in manner provided by the said Acts, sell or let such land to the sanitary authority of the district in which such place

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is wholly or partly situate, upon such terms as may be agreed upon, with the sanction, as regards the said trustees, of the Charity Commissioners for England and Wales.

The Allotments Extension Act, 1882, is set out *ante*, p. 187.

(3) The provisions of this Act shall apply to land vested in the sanitary authority under this section, in like manner as if it had been acquired by the sanitary authority under the general powers of this Act.

As to combination of parishes and contributory places.

14.—(1) If expenses under this Act are incurred in respect of two or more parishes, such expenses shall be apportioned among those parishes in like manner, and subject to the like provisions, as special expenses incurred for the common benefit of two or more contributory places under the Public Health Act, 1875, may be apportioned.

The apportionment referred to in this sub-section is provided for by section 229 of the Public Health Act, 1875.

(2) Where in a rural district any area other than a parish is a contributory place for the purposes of the Public Health Act, 1875, this Act shall apply to such contributory place as if it were a parish, and the expression "parish" in this Act shall not include any parish wholly or partly within such contributory place, and the parliamentary electors for the contributory place shall be the persons registered in any list of parliamentary electors for any parish wholly in such contributory place, or for any parish partly therein, if registered in respect of any qualification situate in such contributory place.

The area other than a parish above referred to may be a special drainage district, or a part of a parish excluded from a special drainage district or from an urban district.

(3) Where a district or parish forms part of more than one county, it shall be deemed for the purposes of this Act to be situate wholly in that county which comprised, according to the last published census for the time being, the largest portion of the population of such district or parish, and where such population is not specified in such census, then in the county in which the largest part of the area of such district or parish is situate, and any doubt which may arise under this section as to the county shall be determined by the Local Government Board.

Two or more parishes immediately adjoining each other may make a representation under this Act, and a sanitary authority of a rural district may take proceedings in respect of such parishes as if they were a single parish. Section 14.

15. The sanitary authority shall cause a register to be kept showing the particulars of the tenancy, acreage, and rent of every allotment let, and of the unlet allotments, and such register shall be open to the examination of ratepayers in the urban district or the parish for which the allotments have been provided, in such manner as may be prescribed by the regulations made under this Act by the sanitary authority, and any ratepayer of such district or parish, without paying any fee, may take copies of or extracts from such register, and within one month after the twenty-fifth day of March in every year shall cause an annual statement showing their receipts and expenditure under this Act in respect of the year ending on that day, and their liabilities outstanding on that day, to be deposited at some convenient place in the district, if urban, or the parish to which the statement relates if the district is rural, and any ratepayer may, without fee, inspect and take copies of such statement. Register of tenancies.

16. For the purposes of this Act "county authority" shall be any representative body elected by the inhabitants of the county which may be established under any Act of any future session of Parliament, and until such representative body is established the powers and duties of the county authority under this Act shall be exercised and performed by the Local Government Board, and the provisions of this Act, and of the enactments incorporated with this Act, shall accordingly be construed with the necessary modification. Definition of county authority.

The county authority is now the county council established under 52 & 53 Vict. c. 41, except in county boroughs, where the Local Government Board is still the county authority by virtue of section 31, sub-sect. (7) of that Act.

17. In this Act, unless the context otherwise requires— Definitions.

The expression "allotment" includes a field garden.

The expressions "urban district" and "rural district" mean respectively an urban and rural sanitary district within the meaning of the Public Health Act, 1875.

The expression "sanitary authority" means the urban sanitary authority of an urban sanitary district and the rural

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sanitary authority of a rural sanitary district within the meaning of the Public Health Act, 1875.

The expression "land" includes pasture, arable, and other land, and any right of way or easement.

Extent of Act.

18. This Act shall not apply to Scotland or Ireland.

THE CHARITABLE TRUSTS ACT, 1887.

50 & 51 VICT. CHAP. 49.

An Act to amend the Charitable Trusts Acts, 1853 to 1869, so far as respects the officers of the Charity Commissioners for England and Wales and the Official Trustees acting under those Commissioners. [16th September, 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Charitable Trusts Act, 1887, and shall be construed as one with the Charitable Trusts Acts, 1853 to 1869, and, together with those Acts, may be cited as the Charitable Trusts Acts, 1853 to 1887.

The Charitable Trusts Acts, 1853 to 1869, are the 16 & 17 Vict. c. 137; 18 & 19 Vict. c. 124; 23 & 24 Vict. c. 136; 25 & 26 Vict. c. 112; 32 & 33 Vict. c. 110.

Appointment of assistant commissioners.

2.—(1) The Charity Commissioners for England and Wales (in this Act referred to as "the Board") may from time to time with the approval in each case of the Commissioners of Her Majesty's Treasury (in this Act referred to as the Treasury) appoint assistant commissioners, and may remove any such assistant commissioner.

(2) The number and salaries of the assistant commissioners under this Act shall be such as the Treasury may from time to time sanction.

(3) Each assistant commissioner under this Act shall have the same powers as an inspector under the Charitable Trusts Acts, 1853 to 1869, and the sections of the Charitable Trusts Acts, 1853 to 1869, specified in the First Schedule to this Act,

shall have effect as if "assistant commissioner" or "assistant commissioners" were therein substituted for "inspector" or "inspectors," as the case may be, and each assistant commissioner acting under the authority of the Board may exercise the said powers for any purpose of or incidental to any duties imposed on the Board by Parliament under any present or future Act. Section 2.

The following is the effect of the provisions hereby applied to assistant commissioners :—

16 & 17 Vict. c. 137.

Section 5. An assistant commissioner may not sit in Parliament.

Section 9. The Board, *i.e.*, the Charity Commissioners, may examine and enquire into any charities in England and Wales, and the nature and objects, administration, management, and results thereof, and the value, condition, management, and application of the estates, funds, property, and income belonging thereto; and the Board may cause such examination and enquiries to be made by their assistant commissioners acting together or separately in such cases, and at such times as the Board think fit, and the assistant commissioners are to report their proceedings to the Board.

Section 10. The Board may require all trustees of charities to render accounts and statements to them or to their assistant commissioners in relation to the charity funds, administration, &c.

Section 11. An assistant commissioner may, by the authority of the Board, search the registers of any court of law and take copies of any decree or document recorded or deposited in relation to any charity.

Section 12 gives to an assistant commissioner the power to require the attendance of witnesses and to examine them on oath.

Section 12. Persons refusing to render accounts or statements, or failing to attend to be examined by an assistant commissioner, are to be deemed guilty of contempt of court and attached on summary application to the Chancery Division.

Section 15 contains a saving in favour of persons claiming adversely to charities, as to which see *Re Sir Robert Peel's School*, L. R. 3 Ch. 550.

Section 19 enables the Board on the report of an assistant commissioner to authorise legal proceedings in relation to any charity, and in other cases to hold local inquiries by an assistant commissioner.

Section 23 enables the Board to compromise or adjust claims on behalf of a charity if after inquiry by an assistant commissioner they think fit.

Section 54 enables the Board, upon the report of an assistant commissioner, to approve and certify schemes which cannot be carried into effect except by authority of Parliament.

Sections 56—58 enable the Board to refer to an assistant commissioner any scheme, and the assistant commissioner is thereupon to hold a local inquiry, hear objections, and report to the Board.

18 & 19 Vict. c. 124.

Section 6 extends the power of the Board and their assistant commissioners to enquire into charities, and to require written accounts and statements from trustees of any charity or their agents, depositaries of charity funds, persons receiving benefits from charity funds, and persons having the control or possession of any documents concerning the charity or any property thereof.

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Section 7 enables an assistant commissioner to require any of the foregoing persons to attend and be examined in relation to the charity.

Section 8 provides that requisitions under the preceding sections shall be made under the hand of an assistant commissioner.

23 & 24 Vict. c. 136.

Section 6. An order removing a trustee, schoolmaster, or other officer of a charity shall not be made until after one month's notice to him, and until after sufficient hearing by the Board or an assistant commissioner.

32 & 33 Vict. c. 110.

Section 9. The Board may order certain costs, including those incurred upon any inquiry by an assistant commissioner, to be provided as costs of a transaction under 18 & 19 Vict. c. 124, s. 36, *i.e.*, out of the income or property of the charity.

(4) The power of appointing inspectors under the Charitable Trusts Acts, 1853 to 1869, shall cease.

Provision for absence of secretary.

3. The signature of any officer of the Board (whether assistant secretary or other) who for the time being is authorised by an order of the Board signed by two Commissioners to act on behalf of the secretary of the Board shall, for all purposes of the Charitable Trusts Acts, 1853 to 1869, or any other enactment, be as valid as the signature of the secretary; and a reference in any enactment to the signature of the secretary shall include a reference to the signature of such officer, and any document signed by an officer expressed to be so authorised shall be received in evidence without proof of the authority.

The enactments relating to the signature of the secretary are 16 & 17 Vict. c. 137, ss. 8, 17, 27; and 18 & 19 Vict. c. 124, ss. 4, 5, 21, 42.

Amendment of Charitable Trusts Acts as to official trustees of charitable funds.

4.—(1) From and after the date fixed by a regulation under this section, such officers of the Board as the Board with the approval of the Treasury from time to time appoint shall, in lieu of the persons mentioned in the Charitable Trusts Amendment Act, 1855, be the official trustees of charitable funds;

Provided that any inspector or officer of the Board, who at the passing of this Act is official trustee of charitable funds, and is not, after the passing of this Act, appointed to be official trustee shall, while he continues to hold his inspectorship or office, receive not less salary than he received while official trustee.

(2) From and after the said date, notwithstanding anything in the Charitable Trusts Acts, 1853 to 1869, the Treasury may,

by regulations to be made or approved by them, from time to time prescribe: Section 4.

(*a*) The accounts to be kept by the said official trustees and the mode in which and the persons by whom such accounts and the banking accounts, and any other accounts required by the Charitable Trusts Acts, 1853 to 1869, to be kept by or on behalf of the official trustees of charitable funds, are to be kept;

(*b*) The mode in which orders authorised by law for the payment of any money to or by the said official trustees or held upon their banking account, or for the transfer of any stock or securities to or by the said official trustees, are to be signed, authenticated, and carried into effect; and

(*c*) The mode in which the business of the said official trustees generally is to be conducted:

Provided that separate accounts shall continue to be kept for each charity.

(3) The accounts of the said official trustees shall be audited by such person and in accordance with such regulations as the Treasury from time to time appoint or prescribe.

(4) A regulation under this section, or an order made under any such regulation, shall be a complete indemnity to the Governor and Company of the Bank of England, and all companies and persons, for any act done pursuant to such regulation or order, and the said Governor and Company, and other companies and persons, shall conform to such regulation or order.

Regulations have been made under this section, and these took effect from the 1st April, 1889.

5. The official trustee of charity lands shall be authorised and be deemed always to have been authorised to take and hold all such land and estate or interest in land, as, in pursuance of an order of the Board, is conveyed to or vested in him by any deed or assurance or otherwise. Declaration as to power of official trustee of charity lands to take and hold land.

6. The Acts specified in the Second Schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned: Provided that— Repeal.

(*a*) This repeal shall not affect anything already done or

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suffered, or the tenure, salary, or powers of any officer holding office at the passing of this Act;

(*b*) This repeal, so far as regards the official trustees of charitable funds, shall take effect on the date on which regulations under this Act in relation to such trustees come into operation.

SCHEDULES.

FIRST SCHEDULE.

SECTIONS OF CHARITABLE TRUSTS ACTS RELATING TO INSPECTORS AND APPLIED TO ASSISTANT COMMISSIONERS.

Session and Chapter.	Title of Act.	Sections applied.
16 & 17 Vict. c. 137	The Charitable Trusts Act, 1853.	Sections five, nine, ten, eleven, twelve, fourteen, fifteen, nineteen, twenty-three, fifty-four, fifty-six, fifty-seven, and fifty-eight.
18 & 19 Vict. c. 124	The Charitable Trusts Amendment Act, 1855.	Sections six, seven, and eight.
23 & 24 Vict. c. 136	The Charitable Trusts Act, 1860.	Section six.
32 & 33 Vict. c. 110	The Charitable Trusts Act, 1869.	Section nine.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Title of Act.	Part Repealed.
16 & 17 Vict. c. 137	The Charitable Trusts Act, 1853.	So much of section one as relates to the inspectors; section four, section fifty-one down to "charitable funds and" inclusive, and section fifty-two down to the words "each separate charity and" inclusive.
18 & 19 Vict. c. 124	The Charitable Trusts Amendment Act, 1855.	Section three; in section four the words "or in his absence, of the chief clerk"; in section five the words "or in his absence, of the chief clerk"; section seventeen; in section eighteen the word "present," and the words "to be so appointed"; section twenty from the words "and the secretary" inclusive to end of section; section twenty-four, from "and the said trustees" inclusive to end of section.
23 & 24 Vict. c. 136	The Charitable Trusts Act, 1860.	In section seventeen the words "appointed under or in pursuance of the first or secondly recited Act."

Preamble.

THE COAL MINES REGULATION ACT, 1887.

50 & 51 VICT. CHAP. 58.

An Act to consolidate with amendments the Coal Mines Acts, 1872 and 1886, and the Stratified Ironstone Mines (Gunpowder) Act, 1881. [16th September, 1877.]

35 & 36 Vict. c. 76. 49 & 50 Vict. c. 40. 44 & 45 Vict. c. 26.

WHEREAS it is expedient to repeal and re-enact with amendments the Coal Mines Acts, 1872 and 1886, and the Stratified Ironstone Mines (Gunpowder) Act, 1881:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. This Act may be cited as the Coal Mines Regulation Act, 1887.

Commencement of Act.

2. This Act shall not come into operation until the first day of January, one thousand eight hundred and eighty-eight, which date is in this Act referred to as the commencement of this Act.

Application of Act.

3. This Act shall apply to mines of coal, mines of stratified ironstone, mines of shale, and mines of fire-clay; and in this Act, unless the context otherwise requires, the word "mine" means a mine to which this Act applies.

* * * * *

Fencing in case of abandoned mine.

37.—(1) Where any mine is abandoned or the working thereof discontinued, at whatever time the abandonment or discontinuance occurred, the owner thereof, and every other person interested in the minerals of the mine, shall cause the top of every shaft and every side entrance from the surface to be and to be kept securely fenced for the prevention of accidents:

Provided that—

(i.) Subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person

interested in the minerals of the mine, be liable to carry into effect this section, and to pay any costs, charges, and expenses incurred by any other person interested in the minerals of the mine in carrying this section into effect: Section 37.

(ii.) Nothing in this section shall exempt any person from any liability under any other Act, or otherwise.

(2) If any person fails to act in conformity with this section, he shall be guilty of an offence against this Act.

(3) No person shall be precluded by any agreement from doing, or be liable under any contract to any damages, penalty, or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this section.

(4) If any occupier of land or other person wilfully obstructs the owner of a mine or other person interested as aforesaid in doing any such acts, he shall be guilty of an offence against this Act.

(5) Any shaft or side entrance which is not fenced as required by this section, and is within fifty yards of any highway, road, footpath, or place of public resort, or is in open or uninclosed land, shall be deemed to be a nuisance within the meaning of section ninety-one of the Public Health Act, 1875. 38 & 39 Vict. c. 55.

The only part of the above section which properly falls within the scope of this work is the last sub-section, which imposes a duty on guardians, as the rural sanitary authority, similar to that imposed on them by 50 & 51 Vict. c. 19, *ante*, p. 460, as to unfenced quarries.

The above section relates only to abandoned or discontinued mines.

It will be the duty of the guardians to give notices under section 94 of the Public Health Act, 1875, requiring fences to be put up in cases within this section, and to take proceedings under section 96 if the notice is not complied with.

* * * * *

74. Section thirty-eight of the Public Health Act, 1875 (which relates to privy accommodation for any house used as a factory or building in which both sexes are employed), shall apply to the portions of a mine which are above ground, and in which girls and women are employed, in like mannner as if it were herein re-enacted with the substitution of "those portions of the mine" for the house in the said section mentioned. Application of 38 & 39 Vict. c. 55, s. 38.

This section applies to guardians in their capacity as rural sanitary authority. Upon the report of their surveyor that any portion of a mine is used or intended to be used as a place in which persons of both sexes are employed at one time, the rural authority may require separate privy accommodation for each sex to be provided.

Section 75.

Interpretation of terms.

75. In this case, unless the context otherwise requires,—

"Mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways, and sidings, both below ground and above ground, in and adjacent to and belonging to the mine:

"Shaft" includes pit:

* * * * *

"Owner," when used in relation to any mine, means any person or body corporate who is the immediate proprietor or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of any mine, or any part thereof, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability.

* * * * *

THE LOCAL AUTHORITIES (EXPENSES) ACT, 1887.

50 & 51 VICT. CHAP. 72.

An Act to amend the Law relating to Expenses of Local Authorities. [16th September, 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Local Authorities (Expenses) Act, 1887.

Definitions.

2. In this Act—

38 & 39 Vict. c. 83.

The expression "local authority" has the same meaning as in the Local Loans Act, 1875.

The expression "district auditor" has the same meaning as in the District Auditors Act, 1879. Section 2. 42 & 43 Vict. c. 6.

Section 34 of the Local Loans Act, 1875 (38 & 39 Vict. c. 83) defines the expression "local authority" thus:—"'Local authority' means the justices of any county, liberty, riding, parts, or division of a county in general or quarter sessions assembled, the council of any municipal borough, also any authority whatsoever having power to levy a rate, as in this Act defined, also any prescribed authority." The term includes sanitary authorities.

3. Expenses paid by any local authority whose accounts are subject to audit by a district auditor shall not be disallowed by that auditor if they have been sanctioned by the Local Government Board. Limitation on power of district auditor.

The effect of this provision is to enable the Local Government Board to sanction expenses which would otherwise be disallowed by the auditor, without waiting until disallowance and then remitting the surcharge on appeal.

THE COUNTY ELECTORS ACT, 1888.

51 VICT. CHAP. 10.

An Act to provide for the Qualification and Registration of Electors for the purposes of Local Government in England and Wales. [16th May, 1888.]

WHEREAS it is expedient to make provision with respect to the qualification and registration of electors of any representative bodies (in this Act referred to as "county authorities") which may be established under any Act of the present session of Parliament for the purposes of local government in counties in England:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the County Electors Act, 1888. The Registration Act, 1885, and the Parliamentary Registration Acts within the meaning of that Act, are in this Act referred to as the Registration of Electors Acts, and together with this Act may be cited as the Registration of Electors Acts, 1843 to 1888. Short title and construction. 48 & 49 Vict. c. 15.

Section 1. This Act shall be construed as one with the Registration of Electors Acts.

This Act is included in the present work only because of the new duties which it imposes upon overseers. It is beyond the scope of this volume to enter into details respecting the law of registration; for information on this subject the reader is referred to *Mackenzie and Lushington on Registration*, and *Lushington's County Electors Act*.

The 48 Vict. c. 15, s. 19, provides that the expression "Parliamentary Registration Acts," means the 6 & 7 Vict. c. 18, and the 41 & 42 Vict. c. 26, inclusive of any Acts and enactments amending the said Acts, or otherwise relating to revising barristers, or to the registration of voters, and of any Acts or enactments relating to rating so far as they are auxiliary to or deal with the registration of voters.

Extension of burgess franchise to county electors outside municipal boroughs. 45 & 46 Vict. c. 50.

2.—(1) For the purpose of the election of county authorities in England, the burgess qualification, that is to say, the qualification enacted by section nine of the Municipal Corporations Act, 1882, shall extend to every part of a county not within the limits of a borough, and a person possessing in any part of a county outside the limits of a borough such burgess qualification, shall be entitled to be registered under this Act as a county elector in the parish in which the qualifying property is situate.

This is not the only qualification of a county elector. Section 3, *infra*, contains an alternative qualification.

(2) Sections nine, thirty-one, thirty-three, and sixty-three of the Municipal Corporations Act, 1882, and any enactments of that or any other Act affecting the same, shall extend to so much of every county as is not comprised within the limits of a municipal borough in like manner as if they were herein re-enacted, with the substitution of "county" for "borough" and of "county elector" for "burgess," and with the other necessary modifications.

The following is the text of the sections above referred to with the modifications above mentioned.

Section 9.—(1) A person shall not be deemed *a county elector* for any purpose unless he is registered as a *county elector*.

(2) A person shall not be entitled to be registered as a *county elector* unless he is qualified under section 3 of the County Electors Act, 1888, or as follows, viz.:

(*a*) Is of full age; and

(*b*) Is on the 15th July in any year, and has been during the whole of the then last preceding twelve months, in occupation, joint or several, of any house, warehouse, counting-house, shop, or other building (in this Act referred to as the qualifying property) in the *county*; and

(*c*) Has during the whole of those twelve months resided in the *county* or within seven miles thereof; and

(*d*) Has been rated in respect of the qualifying property to all poor rates made during those twelve months for the parish wherein the property is situate; and

Section 2. NOTE.

(*c*) Has on or before the 20th of the same July paid all such rates including *county* rates (if any), as have become payable by him in respect of the qualifying property up to the then last preceding 5th of January.

(3) Every person so qualified shall be entitled to be registered as a *county elector in the parish in which the qualifying property is situate*, unless he :

(*a*) Is an alien ; or

(*b*) Has within the twelve months aforesaid received union or parochial relief or other alms ; or

(*c*) Is disentitled under any Act of Parliament.

Section 31. In and for the purposes of this Act,—

(*a*) The terms "house," "warehouse," "counting-house," "shop," "or other building," include any part of a house, where that part is separately occupied for the purposes of any trade, business, or profession ; and any such part may, for the purpose of describing the qualification, be described as office, chambers, studio, or by any like terms applicable to the case ;

(*b*) Where an occupier is entitled to the sole and exclusive use of any part of a house, that part shall not be deemed to be occupied otherwise than separately, by reason only that the occupier is entitled to the joint use of some other part.

Section 33—.(1) Where a person succeeds to qualifying property by descent, marriage, marriage settlement, devise, or promotion to a benefice or office, then, for the purposes of qualification, the occupancy of a property by a predecessor in title, and the rating of the predecessor in respect thereof, shall be equivalent to the occupancy and rating of the successor ; and rating in the name of the predecessor shall, until a new rate is made after the rate of succession, be equivalent to rating in the name of the successor ; and the successor shall not be required to prove his own residence, occupancy or rating before the succession.

(2) The qualifying property need not be throughout the twelve months constituting the period of qualification the same property, or in the same parish.

(3) Where by law a *county* rate is payable by instalments, payment by any person of any such instalment shall, as regards his qualification to be registered as a *county elector*, be deemed a payment of the *county* rate in respect of the period to which the instalment applies.

(4) A person shall not be disentitled to be registered as a *county elector* by reason only,—

(*a*) That he has received medical or surgical assistance from the trustees of the *county* charities, or has been removed by order of a justice to a hospital, or place for reception of the sick at the cost of any local authority ; or

(*b*) That his child has been admitted to and taught in any public or endowed school.

Section 63. For all purposes connected with and having reference to the right to vote at county (local government) elections, words in this Act importing the masculine gender include women.

Occupation of land of the value of 10*l.* to qualify.

3. Every person who is entitled to be registered as a voter in respect of a ten pounds occupation qualification within the meaning of the provisions of the Registration Act, 1885, which are set out in the schedule to this Act, shall be entitled to be registered as a county elector, and to be enrolled as a burgess,

Section 3.

in respect of such qualification, in like manner in all respects as if the sections of the Municipal Corporations Act, 1882, relating to a burgess qualification included the said ten pounds occupation qualification.

See the schedule, *post*. But for this provision the occupier of land as distinguished from a "house, warehouse, counting-house, shop or other building," could not have been registered as a county elector or burgess.

Registration of county electors. 41 & 42 Vict. c. 26.

4.—(1) The Registration of Electors Acts shall, so far as circumstances admit, apply to the enrolment of burgesses in a municipal borough to which the Parliamentary and Municipal Registration Act, 1878, does not apply, and to the registration of county electors within the meaning of this Act; and the lists of burgesses, and of county electors, and of occupation voters for parliamentary elections, shall, so far as practicable, be made out and revised together; and the Registration of Electors Acts shall accordingly—

(*a*) apply to every such municipal borough in like manner as if it were a borough to which sub-section two of section six of the Registration Act, 1885, applied (sub-section one of which section is hereby repealed), and revising assessors for such borough shall not be elected; and

(*b*) apply to every parish not situate in a municipal borough, in like manner as if such parish were a municipal borough to which the Parliamentary and Municipal Registration Act, 1878, applies, and the said lists of county electors and of occupation voters for parliamentary elections in such parish shall be made out in divisions, as provided in the said Act: Provided that a person whose name appears in any list of county electors or burgesses in a county may object to the name of any other person on a list of county electors or burgesses for a parish in that county, and may oppose the claim of a person to have his name inscribed in any such list.

Before the passing of this Act in boroughs to which the 41 & 42 Vict. c. 26, did not apply, the lists of burgesses were revised by the mayor and the revising assessors in manner provided by the Municipal Corporations Act, 1882. The effect of the above provision is that in every parish, whether in a borough or not, and in every borough the lists of county electors and burgesses will be made out in manner provided by the 41 & 42 Vict. c. 26, and revised by the revising barrister together with the lists of parliamentary voters. The occupation voters lists will always be made out in the three divisions prescribed by that Act. Divisions 1 and 2 will form the list of parliamentary voters, and 1 and 3 the register of county electors. See the Local Government Act, section 76, sub-section (3).

Section 4. NOTE.

Section 6, sub-section (2) of the Registration Act, 1885, *ante*, p. 368, related to "merged boroughs," *i.e.*, boroughs which were formerly included in the area of a parliamentary borough which in 1885 ceased to be a parliamentary borough.

(2) In the construction of the Registration of Electors Acts for the purpose of their application to a parish not situate in a municipal borough, there shall be made the variations following, and such other variations as may be necessary for carrying into effect the application, that is to say:—

(*a*) Where such parish is not within a parliamentary borough, "parliamentary county" shall be substituted for "parliamentary borough;"

(*b*) Where such parish is not within a parliamentary borough, the clerk of the peace shall perform the duties of and be substituted for the town clerk; but any notice required to be given to the town clerk by section twenty-seven of the Parliamentary and Municipal Registration Act, 1878, relating to the withdrawal and revival of objections, shall be given to the overseers and not to the clerk of the peace;

(*c*) County elector shall be substituted for burgess;

(*d*) Section nine of the Parliamentary and Municipal Registration Act, 1878, shall not apply to any parish which is not wholly situate in an urban district;

(*e*) Where such parish is not within a parliamentary borough section twenty-one of the Parliamentary and Municipal Registration Act, 1878, shall not apply, and the lists and register of voters shall be made out alphabetically, but shall be framed in parts for polling districts and electoral divisions and for urban districts and for wards of urban and rural districts in such a manner that the parts may be conveniently compiled or put together to serve as lists for polling districts, and elections in urban districts and as electoral division or ward lists;

(*f*) Where such parish is within a parliamentary borough—

(i) the overseers shall send to the clerk of the peace for the county two copies of the lists of voters at the same time at which they send copies to the town clerk; and

(ii) the town clerk shall cause to be printed such number of copies of the revised lists as the clerk of the peace may require, and shall transmit the same to the

Section 4.

clerk of the peace, who shall deal with the same as with other lists of county electors in his county; but,

(iii) save as aforesaid, the clerk of the peace shall not act in relation to the registration of county electors in the said parish, and the town clerk of the parliamentary borough shall be the town clerk within the meaning of the Registration of Electors Acts and this Act in relation to such parish, and shall include in his precept to the overseers proper directions respecting the registration of the county electors within the meaning of this Act.

(*g*) The lists of occupation voters and county electors shall be revised by the revising barrister for the parliamentary borough or county in which such parish is situate, and the revising barrister for revising the county electors lists for the whole or any part of an electoral division of any county shall, if so required by the county council, hold a court in that electoral division or at some convenient place in a division adjoining thereto.

(*h*) The guardians of a union which is not wholly comprised in an urban district may, with the consent of the overseers of any parish or parishes within their union for which an assistant overseer has not been appointed, annually appoint a fit person to act as registration officer for such parish or parishes, and may remove any such person, and fill up any vacancy caused by death, resignation, or otherwise. Such registration officer shall perform all the duties of overseers of the parish or parishes for which he is appointed in respect of the registration of county electors and parliamentary voters, and the provisions of the Registration of Electors Acts relating to overseers, including those providing for penalties, shall apply to him accordingly:

Provided that his remuneration shall be fixed and paid by the guardians of the union, and charged on the poor rates of the parish or parishes for which he is appointed, and (if he acts for more than one parish) in proportion to the number of persons on the registers made during the year of his appointment of county electors and parliamentary voters for each parish.

The 41 & 42 Vict. c. 26, s. 27, as amended by clause. (*b*) of the above section provides that an objection may be withdrawn by notice in writing,

signed by the objector, and given to the person objected to, and to the overseers not less than seven days before the day of holding the first court of revision of the list to which the objection relates. The same section provides that any objection by a qualified objector may, after his death, be revived by any other person qualified to have made the objection originally, by a notice to that effect in writing, signed by him, and given to the person objected to and to the overseers at or before the revision of the entry to which the objection relates.

Section 4. NOTE.

The 41 & 42 Vict. c. 26, s. 9, referred to in clause (*d*) is that which directs publication of notices and lists in post and telegraph offices.

Clause (*e*) is amended by the Local Government Act, 1888, s. 76, subsection (1) which provides that the provisions of the clause with respect to the framing of the lists and register of voters in parts shall extend to parishes situate within a parliamentary borough.

(3) Notwithstanding anything in this Act contained, where a municipal borough or an urban district is co-extensive with any electoral division or divisions of a parliamentary county, the lists of voters may be directed by the county authority to be made out according to the order in which the qualifying premises appear in the rate book, and section twenty-one of the Parliamentary and Municipal Registration Act, 1878, shall apply to such borough or urban district, and where lists of voters are so made out nothing in this Act shall require such part of the county register as consists of these lists to be arranged alphabetically.

The term county authority here means the County Council: Local Government Act, 1888, s. 76 (2).

Making out of lists and registers in metropolis.

5. After the year one thousand eight hundred and eighty-eight, in every part of the metropolis, and in every part of a parliamentary borough, the whole or greater part of which is situate in the metropolis, the lists and registers of parliamentary voters, and of county electors, shall, unless the local authority otherwise direct, be arranged in the same order in which the qualifying premises appear in the rate book for the parish in which those premises are situate, or as nearly thereto as will cause those lists and registers to record the qualifying premises in successive order in the street or other place in which they are situate.

For the purpose of this section "metropolis" means the city of London and the parishes and places mentioned in Schedules (A), (B), and (C), of the Metropolis Management Act, 1855. 18 & 19 Vict. c. 120.

The local authority here referred to are the London County Council.

Revision of electoral lists.

6.—(1) The lists of parliamentary voters, and of burgesses, and of county electors, shall be revised between the eighth day of September and the twelfth day of October both inclusive,

Section 6.

and shall be revised as soon as possible after the seventh day of September, and the eighth day of September shall be substituted in the Acts relating to the registration of parliamentary voters for the fifteenth day of September; and the declarations under section ten of the County Voters Registration Act, 1865, and section twenty-four of the Parliamentary and Municipal Registration Act, 1878, shall be sent to the clerk of the peace or town clerk on or before the fifth day of September.

28 & 29 Vict. c. 36.
41 & 42 Vict. c. 26.

The dates in counties were formerly between the 15th September and the 20th October, and in boroughs between the 15th September and the 31st October, the last day for revising a burgess list being the 12th October.

The declarations under 28 & 29 Vict. c. 36, s. 10, above referred to are declarations by county voters relating to change of abode or objections founded on the second column of the lists which have to be forwarded to the clerk of the peace. The declarations under 41 & 42 Vict. c. 26, s. 24, are those which relate to misdescription and are transmitted to the town clerk.

6 & 7 Vict. c. 18.

(2) In sections sixty-two and sixty-three of the Parliamentary Voters Registration Act, 1843 (relating to appeals from revising barristers in England), "the Michaelmas sittings of the High Court of Justice" shall be substituted for the "Michaelmas term," and forthwith after the fourth day of the Michaelmas sittings a court or courts shall sit for the purpose of hearing such appeals, and those appeals shall be heard and determined continuously and without delay, and any statement by the barrister for the purpose of any such appeal made in pursuance of section forty-two of the said Act may be made at any time within ten days after the conclusion of the revision, so that it be made not less than four days before the first day of the said Michaelmas sittings, and the statement need not be read in open court, but shall be submitted to the appellant, who, if he approves the same, shall sign the same as directed by the said section, and return the same to the barrister.

Roll of county electors.

7.—(1) The clerk of the peace of every county shall make up a register of all persons registered as burgesses or county electors in the county, both for the county and for each electoral division into which the county is divided for the purpose of election of the county authority, and such number of copies as the clerk of the peace may require of the list of burgesses as revised shall be delivered by the town clerk to such clerk of the peace for the purpose of making up such register.

45 & 46 Vict. c. 50.

(2) The Registration of Electors Acts, and sections forty-five, forty-eight, and seventy-one of the Municipal Corporations Act,

1882, shall apply, for the purposes of this section, with the substitution of clerk of the peace for town clerk, and of county register and division register for burgess roll and ward roll respectively, and of electoral division for ward, and of county fund for borough fund. Section 7.

The following is the text of the sections above referred to as modified by the foregoing sub-sections:

Section 45.—(1) When the parish burgess lists have been revised and signed, the revising *barrister* shall deliver them to the clerk of the peace, and a printed copy thereof, examined by him and signed by him, shall be (together with the revised parish county electors lists) the *county register* of the *county*.

(2) The county register shall be completed on or before the 20th October in each year, and shall come into operation on the 1st of November in that year, and shall continue in operation for twelve months beginning on that day.

(3) The names in the *county register* shall be numbered by *electoral divisions* or by polling districts, unless in any case the county council direct that the same be numbered consecutively without reference to *electoral divisions* or polling districts.

(4) Where the *county* has no *electoral divisions*, the *county register* shall be made collectively in one general register for the whole county.

(5) Where the *county* has *electoral divisions* the *county register* shall be made in separate registers called *division registers*, one for each *electoral division*, containing the names of the persons entitled to vote in that *electoral division*, and the division registers shall constitute the *county register*.

(6) Where a duplicate of a parish burgess list is made under section thirty-one of the Parliamentary and Municipal Registration Act, 1878 (as applied by this Act), it shall have the same effect as the original, and may be delivered instead thereof.

(7) Every person *registered* in the *county register* shall be deemed to be enrolled as a burgess, and every person not registered in the county register shall be deemed to be not enrolled as a burgess.

(8) No stamp duty shall be payable in respect of the *registration* of any person in the *county register*.

Section 48.—(1) The *clerk of the peace* shall cause the county electors lists, the lists of claimants and respondents, and the *county register* to be printed, and shall deliver printed copies to any person on payment of a reasonable price for each copy.

(2) Subject to section thirty of the Parliamentary and Municipal Registration Act, 1878 (and also subject to that section as applied by the County Electors Act, 1888), the proceeds of sale shall go to the *county* fund.

Section 71.—(1) If a parish burgess list is not made or revised in due time, the corresponding part of the *county register* in operation before the time appointed for the revision shall be the parish burgess list until a burgess list for the parish has been revised and become part of the county register.

(2) If a register is not made in due time, the county register in force before the time appointed for the revision shall continue in force until a new county register is made.

(3) If district councils are established under any Act of the present session of Parliament, the clerk of every such council,

Section 7. not being the council of a borough, shall make up a register of all persons registered as county electors in his district, and where there are wards in a district, of all county electors in each ward, and he shall obtain from the clerk of the peace a sufficient number of copies of the lists of the county electors so registered as may be required for the purpose of making up such register and supplying the same to the public, and the above-mentioned Acts and sections shall apply for that purpose, with the substitution of "clerk of the district council" for "town clerk," and of "district register" for "burgess roll" respectively;

(4) Provided that nothing in this section shall prevent a county elector from being registered in more than one division register.

It has now been decided by the Court of Appeal that though a county elector may be registered in any number of divisions, he cannot vote in more than one at the same election: *Knell* v. *Towse*, W. N. 1890, p. 102; 24 Q. B. D. 697.

48 & 49 Vict. c. 15.

(5) Where in pursuance of section four of the Registration Act, 1885, the revising barrister has power to erase the name of any person as a parliamentary voter from division one of the occupiers list, such barrister, in lieu of erasing the name, shall place an asterisk or other mark against the name, and, in printing such lists, the name shall be numbered consecutively with the other names, but an asterisk or other mark shall be printed against the name, and a person against whose name such asterisk or other mark is placed shall not be entitled to vote in respect of such entry at a parliamentary election, but shall have the same right of voting at an election of a county authority as he would have if no such mark were placed against his name.

The 48 Vict. c. 15, s. 4 (9), provided that when the name of a person appeared more than once on the lists of voters for the same county, the revising barrister should retain one entry and erase the others. The above provision is rendered necessary by sub-section (4), *supra*.

(6) If under any Act of the present session of Parliament establishing a council for a county any portion of another county is added to that county for the purpose of such election, such portion of the county register as relates to the electors having qualifying property in the said part so added shall be deemed to be part of the county register of the county for which such council is elected, and the clerk of the peace and

other officers shall take such steps as may be necessary for giving effect to these enactments. Section 7.

This applies to urban districts which were formerly in two counties but are now in one only by virtue of section 50 of the Local Government Act, 1888; and see section 92 (2) of that Act.

8.—(1) All expenses properly incurred and all sums received in carrying into effect the provisions of this Act and the Registration of Electors Acts with respect to county electors,— Expenses.

(*a*) If incurred or received by overseers, shall be respectively paid and applied as expenses and receipts of overseers under the Registration of Electors Acts in the case of the lists of parliamentary voters; and

(*b*) If incurred or received by the clerk of the peace or town clerk, shall be paid out of or into the county or borough fund; and such expenses shall include all proper and reasonable fees and charges made and charged by him for the trouble, care, and attention of such clerk in the performance of the services and duties imposed on him by the said provisions.

The statutory provisions relating to the expenses of overseers are contained in 6 & 7 Vict. c. 18, s. 57; 31 & 32 Vict. c. 58, ss. 31, 32; 41 & 42 Vict. c. 26, s. 30. Those relating to the expenses of the clerk of the peace and town clerk are 6 & 7 Vict. c. 18, ss. 53, 54, 56; 30 & 31 Vict. c. 102, s. 31; 41 & 42 Vict. c. 26, s. 38.

9. Every barrister appointed to revise any list of voters under the Parliamentary Voters Registration Act, 1843, shall be paid the sum of two hundred and fifty guineas by way of remuneration to him, and in satisfaction of his travelling and other expenses, and every such barrister, after the termination of his last sitting, shall forward his appointment to the Commissioners of Her Majesty's Treasury, who shall make an order for the payment of the above sum to every such barrister. Remuneration of revising barristers and contribution by county authorities.

The maximum amount to be paid to an additional barrister in pursuance of the Revising Barristers Act, 1886, shall not exceed the amount authorised by this section to be paid to a revising barrister. 49 & 50 Vict. c. 42.

The sums so paid to a revising barrister or an assistant barrister shall be partly payable out of moneys provided by Parliament and partly by the county authorities, as hereinafter mentioned.

(1) There shall be annually paid by the county authority of every county out of the county fund into Her Majesty's

Section 9.

Exchequer such sum as the Treasury certify to be one-half of the cost incurred for the payment of revising barristers at the then last revision of the lists of parliamentary electors, burgesses, and county electors in that county.

(2) The Treasury shall yearly ascertain the total cost of the revising barristers appointed for all the counties and boroughs on any circuit, and shall divide one-half of such cost among the counties comprised in such circuit in proportion to the number of burgesses and county electors in each county, and certify the amount which under such apportionment is due under this section from each county. The Treasury may vary such certificate if they think fit, but unless it is so varied the certificate shall be final.

(3) So much of any Act as requires a payment out of the borough fund of any borough to a revising barrister, in respect of the revision of the burgess lists, shall be repealed, without prejudice to any payment or liability previously made or incurred.

It is provided by the Local Government Act, section 76, sub-section (4), that for the purposes of this section the county of Surrey and such portion of the county of London as is situate south of the Thames, shall be deemed to be separate counties forming part of the south-eastern circuit; and such portion of the administrative county of London as is situate north of the Thames shall be deemed to form part of the county of Middlesex; and the county of Middlesex inclusive of that portion shall be a separate county on a circuit; but any sum payable by the London County Council in respect of either of the said portions of the county shall be paid for as a general county purpose.

Perpetuation of 49 & 50 Vict. c. 42. Repeal of 6 & 7 Vict. c. 18, s. 59.

10.—(1) Section four of the Revising Barristers Act, 1886, is hereby repealed, and that Act, as amended by this Act, shall be perpetual.

(2) So long as a separate commission of assize is issued for the county of Surrey, that county shall be deemed to be a circuit within the meaning of section two, as well as of section one of the Revising Barristers Act, 1886.

(3) An application to appoint an additional barrister under the said Act may be made at any time after the first day of September.

(4) Section fifty-nine of the Parliamentary Voters Registration Act, 1843, is hereby repealed.

11.—(1) In the event of a county authority being established under any Act of the present session, the provisions of this Act with respect to county authority, county, and county fund shall refer to the said county authority and to the county and county fund of such authority, and in case of any borough which, for the purposes of the said Act, is a county of itself, to the council of the borough and to the borough and borough fund. Section 11. Application of provisions of Act respecting county fund.

(2) In the event of a county authority not being established under any Act during the present session, the sums directed by this Act to be paid out of and into the county fund shall be paid by or under the direction of the local authority of every county quarter sessional area within the meaning of the Registration Act, 1885, in like manner as expenses or receipts of the clerk of the peace for such area under the Registration of Electors Acts, and by and under the direction of the council of every municipal borough which is also a parliamentary borough out of and into the borough fund, and the amount to be paid for revising barristers shall be apportioned between such quarter sessional areas and boroughs upon the principles above mentioned in this Act. 48 & 49 Vict. c. 15.

12. A list of persons occupying property in a county, and residing within fifteen miles, but more than seven miles from the county, shall be made out in accordance with section forty-nine of the Municipal Corporations Act, 1882, and that section shall apply as if it were herein re-enacted, with the substitution of "county" for "borough," and of "county elector" for "burgess," and of "clerk of the peace" for "town clerk." Separate list of persons residing within fifteen miles of county.

Section 49 of the Municipal Corporations Act, 1882, provides for the making out of the separate non-resident list, *i.e.*, a list of all persons entitled in respect of the occupation of property to be elected councillors, but who reside more than seven and less than fifteen miles from the borough. A similar list must now be made in every parish in a county. The Local Government Act, 1888, section 76, sub-section (6), provides that nothing in the above section shall apply to any person occupying property in a borough.

13. All precepts, notices, and forms required for the purposes of the Registration of Electors Acts shall be altered in such manner as may be declared by Her Majesty in Council to be necessary for carrying into effect this Act, and clerks of the peace and town clerks shall alter their precepts and forms accordingly, and if clerks of the peace or town clerks have sent out precepts to the overseers before the passing of this Act, Precepts by clerk of the peace.

Section 13. they shall send to them such supplemental precepts as are necessary or desirable for instructing them to carry into effect this Act.

* The Local Government Act, 1888, section 76, sub-section (7), enables the Queen in Council by order to alter the instructions, precepts, notices, and forms in the Registration of Electors Acts in such manner as appears necessary for carrying into effect that Act and the County Electors Act. A registration order was accordingly issued on the 2nd March, 1889.

Definitions.

14. In this Act, unless the context otherwise requires,—

The expressions "urban district" and "rural district" respectively mean an urban or rural sanitary district, also any urban or rural district under any Act of the present session of Parliament;

The expression "clerk of the peace" means, in the event of the establishment of a county authority, the person acting as clerk of that authority, and such person shall act as clerk of the peace throughout the whole county of such authority, both for the purposes of this Act and of the Registration of Electors Acts; subject nevertheless—

(*a*) To the provisions of the Registration Act, 1885, respecting the case of any parliamentary county extending into more county quarter sessional areas than one, and

(*b*) To the proviso that where at the passing of this Act any clerk of the peace acts as clerk of the peace under the Registration of Electors Acts he shall continue so to act, but shall act as deputy of the person acting as clerk of the peace by virtue of this Act.

* * * * *

Section 3.

SCHEDULE.

Registration Act, 1885.

DEFINITION OF TEN POUNDS OCCUPATION QUALIFICATION.

Ten pounds occupation qualification.

A person entitled to be registered as a voter in respect of a ten pounds occupation qualification in a borough, municipal or parliamentary—

(*a*) Must during the whole twelve months immediately preceding the fifteenth day of July have been an occupier as owner or tenant of some land or tenement in a parish [or township] of the clear yearly value of not less than ten pounds; and

Schedule.

(*b*) Must have resided in or within seven miles of the borough during six months immediately preceding the fifteenth day of July ; and

(*c*) Such person, or some one else must during the said twelve months have been rated to all poor rates made in respect of such land or tenement ; and

(*d*) All sums due in respect of the said land or tenement on account of any poor rate made and allowed during the twelve months immediately preceding the fifth day of January next before the registration, or on account of any assessed taxes due before the said fifth day of January, must have been paid on or before the twentieth day of July.

If two or more persons jointly are such occupiers as above mentioned, and the value of the land or tenement is such as to give ten pounds or more for each occupier, each of such occupiers is entitled to be registered as a voter.

If a person has occupied in the borough different lands or tenements of the requisite value in immediate succession during the said twelve months, he is entitled in respect of the occupation thereof to be registered as a voter in the parish [or township] in which the last occupied land or tenement is situate.

THE GLEBE LANDS ACT, 1888.

51 & 52 VICT. CHAP. 20.

An Act to facilitate the sale of Glebe Lands.

[7th August, 1888.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title and extent.

1. This Act may be cited as the Glebe Lands Act, 1888. This Act shall not extend to Scotland or Ireland.

Application by incumbent to Land Commissioners for sale of glebe.

2. The incumbent of any benefice may from time to time, after the prescribed notice to the bishop of the diocese and the patron of the benefice, apply in the prescribed manner to the Land Commissioners to approve the sale of the glebe land of such benefice, or any part thereof, except the parsonage house and such land appurtenant thereto as herein-after mentioned.

The powers and duties of the Land Commissioners under this Act are transferred to the Board of Agriculture under 52 & 53 Vict. c. 30, s. 2.

"Prescribed," means prescribed by rules made in pursuance of the Act. See section 12, *post*.

Section 3.

Sale of glebe with approval of Land Commissioners.

3.—(1) If the Land Commissioners, on an application being made to them to approve the sale of any glebe land under this Act, think fit to entertain the application, and are satisfied that the application has been duly made by an incumbent authorised to apply, and that the prescribed notice has been given to the bishop of the diocese and the patron of the benefice, and that an objection to the sale either has not been made by the bishop or patron, or if made ought not to prevent the sale, and that the sale will be for the permanent benefit of the benefice, they may approve the sale of the said land, subject to the provisions of this Act, and the incumbent, with such approval, may sell the said land; but the Land Commissioners shall not approve the sale of any land occupied by the parsonage house, or the outbuildings, garden, or other appurtenances thereof, or such part of the glebe land as they consider to be necessary for the convenient enjoyment of such house, and the opinion of the said Commissioners in respect of such matters shall be conclusive.

(2) If upon notice of a proposed sale under this Act the bishop of the diocese or patron objects to the sale, and the Land Commissioners are satisfied that such objection ought not to prevent the sale, the Land Commissioners shall inform the bishop or patron, as the case may be, in writing, of their reasons for being so satisfied.

Payment and application of purchase money.

4.—(1) Upon the sale under this Act of the glebe land of any benefice, the purchaser shall pay the purchase money to the Land Commissioners, and the prescribed receipt of the Land Commissioners for such money shall be a sufficient discharge to the purchaser.

(2) The Land Commissioners shall apply the purchase money so paid in defraying the prescribed expenses of or incident to the sale of such land and the investment of the purchase money, and (subject to the provisions of this Act as to incumbrances) shall invest the residue in such one or more of the modes herein-after mentioned as may be selected by the incumbent of the benefice, with the approval of the Land Commissioners, or (in default of such selection) by the Land Commissioners; namely

(*a*) In purchase of any of the following securities, namely, Government securities, the debenture stock of any railway company in Great Britain or Ireland incorporated by special Act of Parliament, and having for

at least ten years next before the date of investment paid a dividend on its ordinary stock or shares, stock of the Metropolitan Board of Works, and that stock of any county or municipal borough in which trustees are by law authorised to invest either generally or whenever they have power to invest in railway debenture stock, if such county or municipal borough had, according to the census last published next before the date of the purchase, a population exceeding one hundred thousand; and

(*b*) In redemption of land tax, chief rent, or quitrent charged on any part of the glebe which is not sold, so that the same may merge in the glebe; and

(*c*) In the purchase of any land adjacent to the parsonage house the possession of which in the judgment of the Land Commissioners would be for the benefit of the benefice and for the convenient enjoyment of such house.

(3) An investment in any securities shall be made in the name of the Ecclesiastical Commissioners for England, and any such investment may from time to time, with the approval of those Commissioners, be varied on the application and at the expense of the incumbent.

(4) Securities bought out of the purchase money under this Act of the glebe of any benefice and held by the Ecclesiastical Commissioners for England shall be entered in the books kept by any body corporate, company, or persons in relation to those securities in the name of those Commissioners, but on a separate account *ex parte* the benefice; such body corporate, company, or persons, however, shall treat those Commissioners as the sole and absolute owner of the securities, and shall arrange with those Commissioners for the payment of the dividends, whether by dividend warrants sent through the post or otherwise, to such persons as may be directed by those Commissioners, and the enactments relating to dividend warrants shall apply to the warrants sent to any such person in like manner as if they were sent to the holder of the securities at his request.

(5) The Ecclesiastical Commissioners for England shall hold any securities purchased with money arising from a sale of land under this Act on the same trusts and for the same purposes on and for which the land sold was held; and may from time to time, if occasion requires, sell such securities and apply the proceeds on the said trusts and for the said purposes, and shall

Section 4.

cause the income arising from such securities to be paid or applied in such manner (if any) as may be directed in pursuance of this Act, and subject thereto, in such manner as the income of the said land sold would have been payable or applicable if such sale had not taken place.

(6) Any land purchased with money arising from a sale under this Act of the glebe land of any benefice shall be conveyed to the incumbent of that benefice, and shall be held by the incumbent for the time being as part of the glebe of the benefice, and the income arising from the land shall be paid or applied as the income of the land sold would have been payable or applicable if the sale had not taken place.

Restrictions as to sales.

5.—(1) Before approving the sale of any land under this Act the Land Commissioners shall ascertain whether the amount of the purchase money is or is likely to be diminished by reason of any dilapidations which the incumbent is by law liable to make good, and, where they are of opinion that the purchase money is or is likely to be so diminished, shall provide for such sum as appears to them to be equal to the amount of such diminution being recouped to the benefice, either by payment of such sum by the incumbent or by the application of all or part of the income of the purchase money towards recouping such sum, and the amount paid towards such recoupment shall be dealt with as purchase money of the land under this Act, but until such sum is fully recouped, nothing in this section shall discharge the incumbent from his liability to make good the said dilapidations.

(2) Nothing in this Act shall empower the Land Commissioners to approve the sale—

(*a*) Of any land subject to a lease originally created for a term exceeding twenty-one years ; or

(*b*) Of any land let for any term whatever where by reason of the rent reserved on the lease being less than two-thirds of the full annual value of the land, or for any other reason, the incumbent is not in possession of the full rents and profits of the land ; or

(*c*) Of any mines or minerals in any case where it appears to them that such mines or minerals are or may become of considerable value.

Provision where land is subject

6.—(1) Where any glebe land sold under this Act, or the benefice to which it belongs, is subject to any mortgage or other

Section 6. to mortgage or other debt.

debt, the land when conveyed to the purchaser shall vest in him free from such mortgage or debt, but such mortgage or debt, if not discharged, shall attach to the purchase money of the land and to any securities or land in or in connexion with which such purchase money is invested, and the mortgagee or creditor shall have the like remedies as nearly as may be in relation to such purchase money, securities, and land as he would have had if the land had not been sold.

(2) The prescribed notice of the proposal to sell any such glebe land shall be given to the mortgagee or creditor, and the mortgagee or creditor may, within the prescribed time after such notice, object to the sale on the ground that his security will be damnified by the sale, and before the Land Commissioners approve the sale they shall be satisfied that such notice has been duly given, and that either such an objection to the sale has not been made by the mortgagee or creditor, or if an objection has been made that the mortgagee or creditor will not be damnified by the sale; and the Land Commissioners may, if it seems to them necessary, make provision either for securing the rights of the mortgagee or creditor, or for the discharge of the mortgage or other debt: Provided that any mortgage created for a limited term, and which is by statute only repayable by annual instalments out of the income of the benefice within such term, shall be discharged in the same instalments out of the interest of the purchase money of land sold under this Act, and that nothing shall be done which will prejudice the future interest of the benefice, and such provision, and any provision which the Land Commissioners may make for preventing any prejudice to the future interest of the benefice, shall be binding on the incumbent for the time being of the benefice.

(3) The Land Commissioners may require the mortgagee or creditor to accept payment of the principal and interest due, together with such additional sum (if any) as seems necessary in order to dispense with any notice which would otherwise be required for such payment.

Provision as to annual charges on benefice.

7. Where any glebe land sold under this Act, or the benefice to which it belongs, or any part of the endowment of such benefice, is subject to a permanent annual charge in favour of the incumbent of any other benefice, the land when conveyed to the purchaser shall vest in him free from such annual charge, but the annual charge shall attach to the purchase money, and to any securities or land in or in connection with which such

Section 7.

purchase money is invested, and the Ecclesiastical Commissioners for England may, if they think fit, set apart an adequate portion of such securities for the purpose of meeting such charge, or any part thereof, and shall thereupon discharge the said benefice and the endowment thereof from the liability to the annual charge or the said part thereof, and the securities so set apart shall be placed to a separate account or otherwise set apart in such manner as these Commissioners may direct.

Supplemental provisions as to sale.

8.—(1) For the purpose of facilitating the acquisition of land by cottagers, labourers and others, it shall be the duty of the Land Commissioners, in giving their approval of a sale under this Act, either to require as a condition thereof that the land or some part thereof shall be offered for sale in small parcels, or to the sanitary authority of a sanitary district for the purposes of the Allotments Act, 1887, or to satisfy themselves that such offer is not practicable without dimiminishing the price which can be obtained for the glebe land on a sale.

50 & 51 Vict. c. 48.

(2) Before approving of a sale under this Act of glebe land of any benefice, the Land Commissioners shall require such notice of the proposed sale to be given as they think sufficient to give information thereof to the parishioners.

(3) The approval of the Land Commissioners of a sale under this Act may be signified in the prescribed manner, and shall be conclusive evidence that the requirements of this Act with respect to the sale have been complied with.

45 & 46 Vict. c. 38.

(4) Subject to the provisions of this Act, the provisions of the Settled Land Act, 1882, with respect to the sale of land by a tenant for life shall, so far as circumstances admit, apply to a sale under this Act by an incumbent in like manner as if he were the tenant for life of the land, and accordingly he shall have the like power with respect to contracts as a tenant for life under that Act, and may do all things necessary and proper for carrying into effect a sale under this Act.

The Allotments Act, 1887, is set out *ante*, p. 481.

Power to make rules.

9.—(1) The Land Commissioners with the approval of the Lord High Chancellor of Great Britain, and, where any rule affects any costs payable out of the Exchequer, with the further consent of the Commissioners of Her Majesty's Treasury, may from time to time make, and when made alter and rescind, rules with respect to the proceedings of the Land Commissioners under

Section 9.

this Act, and the procedure to be observed by applicants and others in relation to such sales, and with respect to the forms to be used for the purposes of this Act, and with respect to any matter which by this Act is authorised or required to be prescribed, or which appears to be necessary or proper for carrying this Act into effect.

(2) The Commissioners of Her Majesty's Treasury may from time to time make, and when made alter and rescind, rules fixing the fees to be paid to the Land Commissioners in respect of any proceeding under this Act, and the mode in which such fees are to be taken, and such fees shall be paid into the Exchequer either directly or by means of stamps, and any such fees paid in relation to a sale shall be deemed to be part of the expenses of the sale.

(3) All rules made by the Land Commissioners under this section shall be judicially noticed, and shall be laid before both Houses of Parliament within three weeks after they are made if Parliament be then in session, and, if Parliament be not then in session, within three weeks after the beginning of the then next session of Parliament.

As to action by patrons.

10.—(1) Where any act is authorised or required to be done, or any notice is required to be given by or to any patron or person for the purpose of this Act, such act and notice may, in the case of the patrons mentioned in the enactments set out in the schedule to this Act, be done and given, so far as may be, by and to the persons and in the manner provided by those enactments in like manner as if such act were a consent, and in the case of any matters to which those enactments do not apply and of any patrons or persons other than the patrons mentioned in the said enactments, or the Duke of Cornwall, shall be done and given in the prescribed manner.

(2) Where the advowson of any benefice is part of the possessions of the Duchy of Cornwall, any notice required to be given to the patron of such benefice for the purposes of this Act may be given to the keeper of the records of the Duchy of Cornwall, and any act authorised or required to be done by the patron of such benefice for the purposes of this Act may be done under the seal of the Duchy of Cornwall; and in the event of the Duke of Cornwall being under the age of twenty-one years, or of there being no Duke of Cornwall, may be done in the manner in which any act in relation to the possessions of the Duchy of Cornwall

Section 10.

may be done in pursuance of section thirty-eight or thirty-nine of the Duchy of Cornwall Management Act, 1863, as the case requires.

26 & 27 Vict. c. 49.

Saving for Ecclesiastical Leasing Acts. 21 & 22 Vict. c. 57.

11. Such notice to the bishop of the diocese as may be prescribed for the purposes of this Act shall be substituted for the period of three months' notice which, in pursuance of section one of the Ecclesiastical Leasing Act, 1858, is required to be given to the bishop of the diocese on every proposed sale of glebe lands under the provisions of that Act, but, save as aforesaid, nothing in this Act shall limit or prejudice the powers and provisions contained in the Ecclesiastical Leasing Acts or in the Acts administered by the Governors of the Bounty of Queen Anne for the Augmentation of the Maintenance of the Poor Clergy.

Definitions.

12. In this Act the following expressions have the meanings hereby assigned to them unless there be something in the context repugnant thereto:—

The expression "Land Commissioners" means the Land Commissioners for England:

The expressions "benefice" and "patron" have the same meaning as in the Ecclesiastical Dilapidations Act, 1871:

34 & 35 Vict. c. 43.

The expression "bishop," in relation to the diocese of an archbishop, includes the archbishop:

The expression "glebe land" includes any manor, land, or tenement forming the endowment or part of the endowment of a benefice:

The expression "prescribed" means prescribed by rules made in pursuance of this Act.

SCHEDULE.

Section 10.

1 & 2 VICT. C. 106, SS. 126, 127.

How consent of patron to be testified when patronage in the Crown.

126. And be it enacted, that in any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this Act, or in which any notice shall be required by this Act to be given to the patron of any benefice, and the patronage of such benefice shall be in the Crown, the consent of the Crown to the exercise of such power shall be testified, and such notice shall be given respectively in the manner hereinafter mentioned; (that is to

say,) if such benefice shall be above the yearly value of twenty pounds in the Queen's books, the instrument by which the power shall be exercised shall be executed by and any such notice shall be given to the Lord High Treasurer or First Lord Commissioner of the Treasury for the time being; and if such benefice shall not exceed the yearly value of twenty pounds in the Queen's books, such instrument shall be executed by and any such notice shall be given to the Lord High Chancellor, Lord Keeper or Lords Commissioners of the Great Seal for the time being; and if such benefice shall be within the patronage of the Crown in right of the Duchy of Lancaster, such instrument shall be executed by and any such notice shall be given to the Chancellor of the said Duchy for the time being; and the execution of such instrument by and any such notice given to such person or persons shall be deemed and taken for the purposes of this Act to be an execution by and a sufficient notice to the patron of the benefice. Schedule.

127. And be it enacted, that in any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this Act, and the patron of such benefice shall be a minor, idiot, lunatic, or feme covert, it shall be lawful for the guardian or guardians, committee or committees, or husband of such patron (but in case of a feme covert with her consent in writing) to execute the instrument by which such power shall be exercised in testimony of the consent of such patron; and such execution shall, for the purposes of this Act, be deemed and taken to be an execution by the patron of the benefice. How where patron is an incapacitated person.

THE RAILWAY AND CANAL TRAFFIC ACT, 1888.

51 & 52 VICT. CHAP. 25.

An Act for the better regulation of Railway and Canal Traffic, and for other purposes. [10th August, 1888.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Railway and Canal Traffic Act, 1888. Short title and construction.

This Act shall be construed as one with the Regulation of Railways Act, 1873, and the Acts amending it; and those Acts and this Act may be cited together as the Railway and Canal Traffic Acts, 1873 and 1888. 36 & 37 Vict. c. 48.

This Act is included because of the powers it confers upon rural sanitary authorities to make and oppose complaints to the Railway Commissioners.

* * * * *

Section 7.

Provision for complaints by public authority in certain cases.

7.—(1) Any of the following authorities, that is to say—

(*a*) any of the following local authorities, namely, any harbour board or conservancy authority, the Common Council of the City of London, any council of a city or borough, any representative county body which may be created by an Act passed in the present or any future session of Parliament, any justices in quarter sessions assembled, the Commissioners of Supply of any county in Scotland, the Metropolitan Board of Works, or any urban sanitary authority not being a council as aforesaid, or any rural sanitary authority; or

(*b*) any such association of traders or freighters, or chamber of commerce or agriculture as may obtain a certificate from the Board of Trade that it is, in the opinion of the Board of Trade, a proper body to make such complaint,

may make to the Commissioners any complaint which the Commissioners have jurisdiction to determine, and may do so without proof that such authority is aggrieved by the matter complained of, and any of such authorities may appear in opposition to any complaint which the Commissioners have jurisdiction to determine in any case where such authority, or the persons represented by them, appear to the Commissioners to be likely to be affected by any determination of the Commissioners upon such complaint.

The complaints which a rural authority may make under this Act are those under sections 9, 10.

(2) The Board of Trade may, if they think fit, require, as a condition of giving a certificate under this section, that security be given in such manner and to such amount as they think necessary, for any costs which the complainants may be ordered to pay or bear.

(3) Any certificate granted under this section shall, unless withdrawn, be in force for twelve months from the date on which it was given.

Jurisdiction.

Jurisdiction of Railway Commissioners

8. There shall be transferred to and vested in the Commissioners all the jurisdiction and powers which at the commencement of this Act were vested in, or capable of being exercised

by the Railway Commissioners, whether under the Regulation of Railways Act, 1873, or any other Act, or otherwise, and any reference to the Railway Commissioners in the Regulation of Railways Act, 1873, or in any other Act, or in any document, shall, from and after the commencement of this Act, be construed to refer to the Railway and Canal Commission established by this Act. Section 8. transferred to the Commission.

9. Where any enactment in a special Act— Jurisdiction of Commissioners under special Acts. 17 & 18 Vict. c. 31.

(*a*) contains provisions relating to traffic facilities, undue preference, or other matters mentioned in section two of the Railway and Canal Traffic Act, 1854, or

(*b*) requires a company to which this part of this Act applies to provide any station, road, or other similar work for public accommodation, or

(*c*) otherwise imposes on a company to which this part of this Act applies any obligation in favour of the public or any individual,

or where any Act contains provisions relating to private branch railways or private sidings, the Commissioners shall have the like jurisdiction to hear and determine a complaint of a contravention of the enactment as the Commissioners have to hear and determine a complaint of a contravention of section two of the Railway and Canal Traffic Act, 1854, as amended by subsequent Acts.

10. Where any question or dispute arises, involving the legality of any toll, rate, or charge, or portion of a toll, rate, or charge, charged or sought to be charged for merchandize traffic by a company to which this part of this Act applies, the Commissioners shall have jurisdiction to hear and determine the same, and to enforce payment of such toll, rate, or charge, or so much thereof as the Commissioners decide to be legal. Jurisdiction over tolls and rates.

* * * * *

12. Where the Commissioners have jurisdiction to hear and determine any matter, they may, in addition to or in substitution for any other relief, award to any complaining party who is aggrieved such damages as they find him to have sustained; and such award of damages shall be in complete satisfaction of any claim for damages, including repayment of overcharges, which, but for this Act, such party would have had by reason of the matter of complaint. Power to award damages.

Section 12.

Provided that such damages shall not be awarded unless complaint has been made to the Commissioners within one year from the discovery by the party aggrieved of the matter complained of.

The Commissioners may ascertain the amount of such damages either by trial before themselves, or by directing an inquiry to be taken before one or more of themselves or before some officer of their court.

No damages where rates published under certain conditions.

13. In cases of complaint of undue preference no damages shall be awarded if the Commissioners shall find that the rates complained of have, for the period during which such rates have been in operation, been duly published in the rate books of the railway company kept at their stations in accordance with section fourteen of the Regulation of Railways Act, 1873, as amended by this Act, unless and until the party complaining shall have given written notice to the railway company requiring them to abstain from or remedy the matter of complaint, and the railway company shall have failed, within a reasonable time, to comply with such requirements in such a manner as the Commissioners shall think reasonable.

* * * * *

Power to apportion expenses between railway company and applicants for works.

16.—(1) Where the Board of Trade or the Commissioners, in the exercise of any power given by any general or special Act, on application order a company to which this part of this Act applies, to provide a bridge, subway, or approach, or any work of a similar character, the Board of Trade or the Commissioners, as the case may be, may require as a condition of making the order that an agreement to pay the whole or a portion of the expenses of complying with the order shall be entered into by the applicants or some of them, or such other persons as the Board of Trade or Commissioners think fit, and any of the following local authorities, namely, any sanitary authority, highway board, surveyor of highways acting with the consent of the vestry of his parish, or any other authority having power to levy rates, shall have power, if such authority think fit, to enter into any such agreement as is sanctioned by the Board of Trade or Commissioners for the purpose of the order.

This section would apply to a rural sanitary authority upon a complaint made by them under section 9, *ante*, p. 531.

Section 16.

(2) In such case any question respecting the persons by whom or the proportions in which the expenses of complying with the order are to be defrayed may, on the application of any party to the application, or on a certificate of the Board of Trade, be determined by the Commissioners.

(3) In this section the expression "parish" shall have the same meaning as the same expression has in the Acts relating to highways; and the expression "the consent of the vestry of his parish" shall in any place where there is no vestry meeting, mean the consent of a meeting of inhabitants contributing to the highway rates, provided that the same notice shall have been given of such a meeting as would be required by law for the assembling of a meeting in vestry.

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Group rates to be chargeable by railway companies.

29.—(1) Notwithstanding any provision in any general or special Act, it shall be lawful for any railway company, for the purpose of fixing the rates to be charged for the carriage of merchandise to and from any place on their railway, to group together any number of places in the same district, situated at various distances from any point of destination or departure of merchandise, and to charge a uniform rate or uniform rates of carriage for merchandise to and from all places comprised in the group from and to any point of destination or departure.

(2) Provided that the distances shall not be unreasonable, and that the group rates charged and the places grouped together shall not be such as to create an undue preference.

(3) Where any group rate exists or is proposed, and in any case where there is a doubt whether any rates charged or proposed to be charged by a railway company may not be a contravention of section two of the Railway and Canal Traffic Act, 1854, and any Acts amending the same, the railway company may, upon giving notice in the prescribed manner, apply to the Commissioners, and the Commissioners may, after hearing the parties interested and any of the authorities mentioned in section seven of this Act, determine whether such group rate or any rate charged or proposed to be charged as aforesaid does or does not create an undue preference. Any persons aggrieved, and any of the authorities mentioned in section seven of this Act, may, at any time after the making of any order under this section, apply to the Commissioners to vary or rescind the

Section 29.

order, and the Commissioners, after hearing all parties who are interested, may make an order accordingly.

A rural sanitary authority is one of the authorities mentioned in section 7, *ante*, p. 530.

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Part II. to extend to canal companies.

36. All the provisions of Part II. of this Act relating to any railway company shall, so far as applicable, apply to every canal company, and to every railway and canal company; and in Part II. of this Act, unless the context otherwise requires, the expression "railway company" shall include a canal company and railway and canal company, and the expression "railway" shall include a canal, and the expression "rate" shall include tolls and dues of every description chargeable for the use of any canal or by any canal company.

The only section of Part II. of this Act which has been included in the present volume is section 29.

* * * * *

Abandonment of canal.

45.—(1) Where, on the application of a canal company, it appears to the Board of Trade that any canal or part of a canal belonging to the applicants (hereinafter referred to as an unnecessary canal) is, at the time of making the application, unnecessary for the purposes of public navigation, or where, on the application of any local authority, or of three or more owners of lands adjoining or near to any canal or part of a canal, it appears to the Board of Trade that that canal or part of a canal (hereinafter referred to as a derelict canal) has for at least three years previously to the making of the application been disused for navigation, or, by reason of the default of the proprietors thereof, has become unfit for navigation, or that the lands adjoining or near thereto have suffered injury by water that has escaped from the derelict canal, and that the proprietors of the derelict canal decline or are unable to effect the repairs necessary to prevent further injury, the Board of Trade may by warrant signed by their secretary authorise the abandonment by the existing proprietors of such unnecessary canal or such derelict canal, and after the granting of the warrant, and the due publication as required by the Board of Trade of a notice of the granting thereof, the Board of Trade may make an order releasing the canal company or other the proprietors of the unnecessary or derelict canal from all liability to maintain the same canal, and from all statutory and other obligations in

respect thereof, or of or consequent on the abandonment thereof.

(2) In the case of an unnecessary canal no warrant of abandonment shall be granted unless the Board of Trade are satisfied—

(*a*) That it is unnecessary for the purposes of public navigation;

(*b*) That the application has been expressly authorised by a resolution of a majority of the shareholders of the canal company owning the canal present and voting at an extraordinary or special general meeting of that company;

(*c*) That such public and other notices of the application have been given as the Board of Trade may require;

(*d*) That compensation (the amount thereof to be determined in case of difference as the Board of Trade may prescribe) has been made to all persons entitled to compensation by reason of the proposed abandonment of the canal.

(3) In the case of a derelict canal the warrant may be granted on the condition that the canal or any part thereof, with all or any of the powers relating thereto, be transferred to any person, body of persons, or local authority, and where any such condition is imposed the Board of Trade may, if they think fit, frame and embody in a Provisional Order a scheme for the management of the canal or any part thereof.

(4) The Provisional Order may provide for the constitution of a body to manage the canal or any part thereof, for the transfer to that body or any local authority of the canal or any part thereof, and of all or any of the powers relating thereto, for the limitation or discharge of any liabilities affecting the canal or the owners thereof for the time being, and for any other matters which may appear to the Board of Trade to be necessary or proper for carrying this section into effect.

(5) The Board of Trade may submit to Parliament for confirmation any Provisional Order made by it in pursuance of this section, but any such order shall be of no force unless and until it is confirmed by Act of Parliament.

(6) If while the Bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the Bill, so far as it relates to the order, may be referred to a select committee, and the petitioner

Section 45.

shall be allowed to appear and oppose as in the case of private Bills.

(7) In this section the expression "local authority" means any one of the local authorities mentioned in section seven of this Act.

(8) For the purpose of giving effect to the provisions of this section, the Board of Trade may require the applicants to furnish any evidence in their possession or under their control relative to the application, and may at the expense of the applicants appoint and send an officer to inspect the canal referred to in the application, and to obtain information and evidence in the neighbourhood thereof relative to the proposed abandonment, and may from time to time make regulations as to the mode of making applications, and the nature and mode of publication of notices, and generally as to the conduct of proceedings.

Definition of "canal company."

46. In this part of this Act the expression "canal company" shall include a "railway and canal company," so far as relating to any canal of any such last-mentioned company.

* * * * *

Evidence on rating appeals.

48. On any rating appeal, and before any court, where it may be material to show the receipts or profits of a railway company or canal company, or railway and canal company, it shall be lawful for the company to prove the same by written statements or returns verified by the affidavit or statutory declaration of the manager or other responsible officer, and any such statements or returns shall be *primâ facie* evidence of the facts therein stated with respect to such receipts or profits: Provided that the person by whom any such affidavit or statutory declaration is made shall in every case, if required, attend to be cross-examined thereon.

A rating appeal is defined by section 55 to mean an appeal against any valuation list or against any poor rate or any other local rate.

* * * * *

Expenses of local authorities.

54.—(1) Where any local authority having power under this Act to make or oppose any complaint to the Commissioners, or the Board of Trade, or to enter into any agreement to pay the whole or a portion of the expenses of complying with an order of the Commissioners of the Board of Trade, or to make any application for the abandonment or acquisition of a canal under this Act, incur any expenses in or incidental to such complaint,

opposition, agreement, or application, such expenses may be defrayed out of the rates or funds out of which the expenses incurred by such authority in the execution of their ordinary duties are defrayed, and if such authority is a rural sanitary authority in England, shall be defrayed as general expenses, unless the Local Government Board direct that they shall be defrayed as special expenses. Section 54.

General expenses are paid out of a common fund raised out of the poor rate of the parishes in the district according to the rateable value of each. Special expenses are a separate charge on each contributory place. See the Public Health Act, 1875, s. 229.

(2) A local authority may enter into any contract involving the payment by themselves and their successors of any expenses authorised by this section to be defrayed.

(3) Where any such local authority have no power to borrow money for the purpose of defraying any expenses authorised by this section, such authority, if other than a surveyor of highways, may, with the consent of the Board of Trade in the case of any harbour board or conservancy authority, and with the consent of the Local Government Board in the case of any other authority, borrow money in manner provided by the Local Loans Act, 1875, on the security of the rates or funds out of which the expenses are authorised to be defrayed, and the prescribed period for the loan shall be such period as the Board giving such consent may approve. 38 & 39 Vict. c. 83.

(4) On the request of any board whose consent is required for such loan, the Board of Trade or Commissioners shall certify such particulars respecting the amount of the said expenses and the propriety of incurring the same and of borrowing for the payment thereof as may be requested by such board.

(5) In Ireland, any authority borrowing in pursuance of this section may borrow in manner provided by the Public Health (Ireland) Act, 1878, in like manner as if the provisions of that Act with respect to borrowing were re-enacted in this section, and in terms made applicable thereto. 41 & 42 Vict. c. 52.

* * * * *

56. This Act shall come into operation on the first day of January one thousand eight hundred and eighty-nine, which day is in this Act referred to as the commencement of this Act: Provided that at any time after the passing of this Act any Commencement of Act.

Section 56. appointment and rules may be made, and other things done for the purpose of bringing this Act into operation at such commencement.

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THE MARRIAGES VALIDATION ACT, 1888.

51 & 52 VICT. CHAP. 28.

An Act to remove Doubts as to the Validity of certain Marriages solemnised by a Person falsely pretending to be an ordained Clergyman of the Church of England.

[13th August, 1888.]

WHEREAS George Frederick Wilfrid Ellis forged certain letters of Orders, and falsely pretended himself to be in Holy Orders, and solemnised divers marriages according to the rites of the Church of England, and has been convicted of felony accordingly:

And whereas doubts have been entertained as to the validity of the marriages so solemnised, and it is expedient to remove those doubts:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Validation of certain marriages.

1. All marriages solemnised before the passing of this Act according to the rites of the Church of England, by the said George Frederick Wilfred Ellis, between persons believing him to have been duly ordained, shall be as valid as if the same had been solemnifed by a duly ordained clergyman of the Church of England.

Short title.

2. This Act may be cited as the Marriages Validation Act, 1888.

Preamble.

THE LOCAL GOVERNMENT (ENGLAND AND WALES) ACT, 1888.

51 & 52 VICT. CHAP. 41.

An Act to amend the Laws relating to Local Government in England and Wales, and for other purposes connected therewith. [13th August, 1888.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Those sections only of the Act which affect the poor law, guardians, or rural sanitary authorities are here inserted.

PART I.

COUNTY COUNCILS.

* * * * *

Powers of County Council.

Transfer to county council of administrative business of quarter sessions.

3. There shall be transferred to the council of each county on and after the appointed day, the administrative business of the justices of the county in quarter sessions assembled, that is to say, all business done by the quarter sessions or any committee appointed by the quarter sessions, in respect of the several matters following, namely,—

(i.) The making, assessing, and levying of county, police, hundred, and all rates, and the application and expenditure thereof, and the making of orders for the payment of sums payable out of any such rate or out of the county stock or county fund, and the preparation and revision of the basis or standard for the county rate;

By the County Rate Act, 1852, 15 & 16 Vict. c. 81, s. 2, it is provided that the justices in quarter sessions in every county shall from time to time appoint any number of justices not exceeding eleven, nor less than five, to be a committee for preparing a basis or standard to be founded and prepared rateably and equally according to the full and fair annual value of the property rateable to the relief of the poor in every parish, township, borough, or place, whether parochial or extra-parochial, within the respective limits of the said justices' commissions, or which in any place within

Section 3.

NOTE.

such limits not maintaining its own poor, would be liable to be rated if such last-mentioned place were a parish, or of altering or amending such basis or standard from time to time as circumstances may require: provided that in counties containing more than eleven petty sessional divisions the committee may be extended to the actual number of divisions, so that one justice from each division may be selected to act on the committee. It will in future be necessary for the county council to appoint a county rate committee under the above section. The committee must not be less than five in number, and it may number eleven, or, if there are more than eleven petty sessional divisions, as many as there are divisions. In the latter case it will apparently still be necessary to see that each division is represented on the committee. On the section just quoted it has been decided that tenants in ancient demesne are liable to pay county rates, as they are liable for poor rates, though they are exempt from taxes and tollages granted by Parliament to the Crown: *Reg.* v. *Aylesford* (*Inhabitants of*), 2 E. & E. 538; 29 L. J. M. C. 83; 25 J. P. 534. It has also been held that in a valuation under the section all property, whether occupied or not, must be included: *Reg.* v. *Hammersmith*, 7 W. R. 524; 33 L. T. 183; 24 J. P. 387 (followed in *Reg.* v. *Malden*, L. R. 4 Q. B. 326; 38 L. J. M. C. 125; 33 J. P. 645). The county council will also make the county rate upon all parishes and places liable to contribute to it, the proportion payable by each place being regulated by the basis or standard prepared and revised from time to time by the committee and confirmed by the council. The rate is levied by precepts addressed to the guardians requiring them to pay to the county treasurer the sums due from each parish in their union, and the guardians obtain these sums from the overseers in the same manner as money for the relief of the poor.

The police rate is made pursuant to 3 & 4 Vict. c. 88, s. 3, for the purpose of defraying the expenses of the county police. It is made on the same basis as the county rate, and is levied with it. The same Act provides for the raising of the proportion of the county rate payable by detached parts of other counties and by liberties. Such detached portions are by 7 & 8 Vict. c. 61, s. 1, to be deemed to form part of the county for which they form parts for the purposes of parliamentary elections; and justices had power under 3 & 4 Vict. c. 88, s. 2, and 21 & 22 Vict. c. 68, s. 1, to transfer detached portions from one county to another for the purposes of police. Section 50, sub-section (1) of this Act contains a saving for such transfers, which will in future be effected by county councils. Liberties are for the future to be merged in the administrative county. See section 48, which contains provisions as to the police in such liberties.

It should be observed that though the control and management of the police is to be entrusted to the standing joint committee under section 10, the police rates will be made by the council.

The hundred rate used to be levied for the purpose of making good compensation for damage by riot pursuant to 7 & 8 Geo. 4, c. 31, and 2 & 3 Will. 4, c. 72. These Acts are now repealed, and such compensation is payable out of the police rate of the district in which the damage was done. See the Riot (Damages) Act, 1886. A hundred rate may also be levied for the purposes of certain main roads and bridges under section 20 of the Highway Act, 1878.

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(vi.) The provision, enlargement, maintenance, management, and visitation of and other dealing with asylums for pauper lunatics;

All the provisions relating to pauper lunatics are now consolidated in one Act, 53 Vict. c. 5.

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Section 4.

Transfer of certain powers under local Acts.

4. Where it appears to the Local Government Board that any powers, duties, or liabilities of any quarter sessions or justices, or any committee thereof, under any local Act are similar in character to the powers, duties, and liabilities transferred to county councils by this Act, or relate to property transferred to a county council by this Act, the Board may, if they think fit, make a Provisional Order for transferring such powers, duties, and liabilities to the county council.

Provisional Orders under this Act are made under section 87, which incorporates the provisions of the Public Health Act, 1875, as to Provisional Orders.

* * * * *

Reservation of business to quarter sessions.

8.—(1) Nothing in this Act shall transfer to a county council any business of the quarter sessions or justices in relation to appeals by any overseers or persons against the basis or standard for the county rate or against that or any other rate.

The appeal against the basis or standard for the county rate is given by 15 & 16 Vict. c. 81, s. 17.

(2) All business of the quarter sessions or any committee thereof not transferred by or in pursuance of this Act to the county council shall be reserved to and transacted by the quarter sessions or committee thereof in the same manner, as far as circumstances admit, as if this Act had not passed.

* * * * *

Transfer to county council of powers of certain Government departments and other authorities.

10.—(1) After the passing of this Act it shall be lawful for the Local Government Board to make from time to time a Provisional Order for transferring to county councils—

(*a*) Any such powers, duties, and liabilities of Her Majesty's Privy Council, a Secretary of State, the Board of Trade, the Local Government Board, or the Education Department, or any other Government department, as are conferred by or in pursuance of any statute and appear to relate to matters arising within the county, and to be of an administrative character; also .

(*b*) Any such powers, duties, and liabilities arising within the county, of any commissioners of sewers, conservators, or other public body, corporate or unincorporate (not being the corporation of a municipal borough or an urban or rural authority, or a school board, and not

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being a board of guardians) as are conferred by or in pursuance of any statute;

and such Order shall make such exceptions and modifications as appear to be expedient, and also such provisions as appear necessary or proper for carrying into effect such transfer, and for that purpose may transfer any power vested in Her Majesty in Council:

No Provisional Order under this section has yet been confirmed by Parliament.

(2) Provided that before any such Order is made, the draft thereof shall be approved, if it relates to the powers, duties, or liabilities of a Secretary of State, or the Board of Trade, or any other Government department, by such Secretary of State, Board, or department, and approved, if it affects the powers, duties, or liabilities of any commissioners, conservators, or body, corporate or unincorporate, by such commissioners, conservators, or body; and every such Provisional Order shall be of no effect until it is confirmed by Parliament.

(3) If any such powers, duties, or liabilities as are referred to in any Provisional Order under this section arise within two or more counties, they may be transferred to the county councils of such two or more counties jointly, and may be exercised and discharged by a joint committee of such councils.

(4) The Act of Parliament confirming any Provisional Order made under this section shall be a public general Act.

* * * * *

Power to county council to enforce provisions of 39 & 40 Vict. c. 75.

14.—(1) On and after the appointed day a county council shall have power, in addition to any other authority, to enforce the provisions of the Rivers Pollution Prevention Act, 1876 (subject to the restrictions in that Act contained), in relation to so much of any stream as is situate within, or passes through or by, any part of their county, and for that purpose they shall have the same powers and duties as if they were a sanitary authority within the meaning of that Act, or any other authority having power to enforce the provisions of that Act, and the county were their district.

The Rivers Pollution Prevention Act, 1876, may be enforced by sanitary authorities. The above provision gives to county councils concurrent powers with the sanitary authorities.

(2) Any county council shall have power to contribute towards the costs of any prosecution under the said Act instituted by any other county council or by any urban or rural authority.

(3) The Local Government Board, by Provisional Order made on the application of the council of any of the counties concerned, may constitute a joint committee or other body representing all the administrative counties through or by which a river, or any specified portion of a river, or any tributary thereof, passes, and may confer on such committee or body all of the powers of a sanitary authority under the Rivers Pollution Prevention Act, 1876, or such of them as may be specified in the Order; and the Order may contain such provisions respecting the constitution and proceedings of the said committee or body as may seem proper, and may provide for the payment of the expenses of such committee or body by the administrative counties represented by it, and for the audit of the accounts of such committee or body, and their officers.

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Power of county councils to appoint medical officer of health.

17.—(1) The council of any county may, if they see fit, appoint and pay a medical officer of health, or medical officers of health, who shall not hold any other appointment or engage in private practice without express written consent of the council.

For the qualification of these medical officers of health, see the next section.

(2) The county council and any district council may from time to time make and carry into effect arrangements for rendering the services of such officer or officers regularly available in the district of the district council, on such terms as to the contribution by the district council to the salary of the medical officer, or otherwise, as may be agreed, and the medical officer shall have within such district all the powers and duties of a medical officer appointed by a district council.

The object of this provision is to enable the medical officer to exercise jurisdiction over a wider area, and to give him greater freedom and independence in the discharge of his duties.

(3) So long as such an arrangement is in force, the obligation of the district council under the Public Health Act, 1875, to

Section 17. appoint a medical officer of health shall be deemed to be satisfied without the appointment of a separate medical officer.

The obligation of a district council here referred to is that arising under sections 189, 190 of the Public Health Act, 1875. If the district council enter into an arrangement with the county council under sub-section (2), they need not appoint a medical officer for their own district.

Qualification of medical officers of health.

18. Except where the Local Government Board, for reasons brought to their notice, may see fit in particular cases specially to allow, no person shall hereafter be appointed the medical officer of health of any county or county district, or combination of county districts, or the deputy of any such officer, unless he be legally qualified for the practice of medicine, surgery, and midwifery.

"County district" means an urban or rural sanitary district: see section 100.

Medical officers of health may be appointed for a combination of districts under the Public Health Act, 1875, s. 191. That section is materially modified by the text as to the qualification of a medical officer, who must now be legally qualified in medicine, surgery, and midwifery pursuant to 49 & 50 Vict. c. 48. The Local Government Board may dispense with the necessity of this triple qualification, subject, however, to the provisions of the next sub-section.

(2) No person shall after the first day of January, one thousand eight hundred and ninety-two, be appointed the medical officer of health of any county or of any such district or combination of districts, as contained, according to the last published census for the time being, a population of fifty thousand or more inhabitants, unless he is qualified as above-mentioned, and also either is registered in the medical register as the holder of a diploma in sanitary science, public health, or State medicine under section twenty-one of the Medical Act, 1886, or has been during three consecutive years preceding the year one thousand eight hundred and ninety-two a medical officer of a district or combination of districts, with a population according to the last published census of not less than twenty thousand, or has before the passing of this Act been for not less than three years a medical officer or inspector of the Local Government Board.

49 & 50 Vict. c. 48.

After the 1st January, 1892, no medical officer of health may be appointed for any county, district, or combination of districts containing a population of over 50,000 unless (1) he possesses the triple qualification already mentioned, and has, in addition, been registered as the holder of a diploma in sanitary science under 49 & 50 Vict. c. 48, s. 21, or (2) has during 1889, 1890, and 1891 been a medical officer for a district or combination of districts having a population of over 20,000, or (3) has been for three years previous to the 13th August, 1888, a medical officer or inspector of the Local Government Board.

Section 19.

Power of county council as to report of medical officer of health.

19.—(1) Every medical officer of health for a district in any county shall send to the county council a copy of every periodical report of which a copy is for the time being required by the regulations of the Local Government Board to be sent to the Board, and if a medical officer fails to send such copy the county council may refuse to pay any contribution, which otherwise the council would in pursuance of this Act pay, towards the salary of such medical officer.

The periodical reports here referred to are those prescribed by the Local Government Orders, for which see *Glen's Local Government Orders*. They include the quarterly returns of sickness and death, and the annual report made in the month of December in every year.

The contribution of the county council towards the salary of the medical officer is payable under section 24, sub-section (2).

(2) If it appears to the county council from any such report that the Public Health Act, 1875, has not been properly put in force within the district to which the report relates, or that any other matter affecting the public health of the district requires to be remedied, the council may cause a representation to be made to the Local Government Board on the matter.

This representation will probably amount to a complaint under section 299 of the Public Health Act, 1875. If so, the Local Government Board, if satisfied of the alleged default after due inquiry, may make an order on the local authority for the performance of their duty, and may enforce this order by *mandamus*, or they may appoint a person for the performance of the duty and recover the expenses from the authority.

Financial Relations between Exchequer and County, and Contributions by County for Costs of Union Officers.

Payment to county council of proceeds of duties on local taxation licences.

20.—(1) After the financial year ending on the thirty-first day of March next after the passing of this Act, the Commissioners of Inland Revenue shall from time to time, in such manner and under such regulations as the Treasury from time to time prescribe, pay into the Bank of England to such account (in this Act referred to as the Local Taxation Account) as may be fixed by the regulations, such sums as may be ascertained in manner provided by the regulations to be the proceeds of the duties collected by those Commissioners in each administrative county in England and Wales on the licences (in this Act referred to as local taxation licences) specified in the First Schedule to this Act, and for the purposes of this section all penalties and forfeitures recovered in respect of the said duties shall be considered as part of the proceeds of the duties.

Section 20.

(2) The amount ascertained as aforesaid to have been collected in each county in respect of duties on local taxation licences shall, from time to time, be certified by the Commissioners of Inland Revenue, and paid under the direction of the Local Government Board out of the Local Taxation Account to the council of such county. The Commissioners may, if they think fit, vary such certificate, but unless so varied, their certificate shall be conclusive.

(3) It shall be lawful for Her Majesty the Queen from time to time by Order in Council made on the recommendation of the Treasury to transfer to county councils as from the date specified in the Order the power to levy the duties on all or any of the local taxation licences, and after such date every county council and their officers shall (subject nevertheless to any exceptions and modifications contained in the Order) have within their county, for the purpose of levying the duties transferred, the same powers, duties, and liabilities as the Commissioners of Inland Revenue and their officers have with respect to the duties transferred, and to the issue and cancellation of licences on which the duties are imposed, and other matters under the Acts relating to those duties and licences, and all enactments relating to those duties and licences, and to punishments and penalties connected therewith, shall apply accordingly.

The duties will be collected in the first instance, and the Acts relating to the licenses will be enforced by the officers of Inland Revenue as heretofore, the amount levied being paid into the Local Taxation Account under subsection (1). The power to levy the duties directly, and otherwise to exercise the present functions of the Inland Revenue officers, may be transferred to the county councils by virtue of the above provision, but no such transfer has as yet been made.

(4) Provided as follows:—

(i.) All penalties and forfeitures recovered by a county council in pursuance of this section shall, instead of being paid to the Exchequer, be paid to the county fund, and carried to the same account as the duties.

(ii.) The county council shall have, as respects the said duties and licences, the power given by the said Acts to the Treasury for the restoration of any forfeiture, and the mitigation or remission of any penalty or any part thereof.

(iii.) Nothing in this section shall confer on the county council any special privileges of the Crown as respects legal proceedings.

(5) On a transfer under this section of the power to levy the duties on any licence— Section 20.

(*a*) The county council shall provide for issuing, in different parts of their county, their licence for the same purpose, so as to enable persons to obtain it near their residences; and

(*b*) If such licence has operation in any place in the United Kingdom outside the county in which it is issued, the licence of a county council for the same purpose shall continue to have the like operation outside the county in such place.

The provision (*b*) is inserted to prevent its being necessary to have a license, such as a dog or gun license, in every separate county.

Grant to county council of portion of probate duty.

21. After the financial year ending the thirty-first day of March next after the passing of this Act, the Commissioners of Inland Revenue shall, from time to time, in such manner and under such regulations as the Treasury may from time to time prescribe, pay into the Bank of England to the Local Taxation Account such sums as may be ascertained in manner provided by the regulations to be four-fifth parts of one half of the proceeds of the sums collected by them in respect of the probate duties, and for the purpose of this section "probate duties" means the stamp duties charged on the affidavit required from persons applying for probate or letters of administration in England, Wales, or Ireland, and on the inventory exhibited and recorded in Scotland, and also the stamp duties charged on such accounts of personal and movable property as are specified in section thirty-eight of the Customs and Inland Revenue Act, 1881, and also includes the proceeds of all penalties and forfeitures recovered in relation to such stamp duties. 44 & 45 Vict. c. 12.

As to the Local Taxation Account, see section 20 (1), *ante*, p. 545.

The accounts specified in 44 & 45 Vict. c. 12, s. 38, include accounts of property taken under a *donatio mortis causâ*, or under a voluntary disposition which shall not have been *bonâ fide* made within three months before the death of the deceased; of property voluntarily vested by a person in his own name and that of another, so that the beneficial interest passes on death to the survivor; of property passing under a voluntary settlement under which a person deceased reserved an interest to himself, &c.

Distribution of probate duty grant.

22.—(1) The sums paid in pursuance of this Act to the Local Taxation Account, in respect of the proceeds of the probate duties (in this Act referred to as the "probate duty grant"), shall, until Parliament otherwise determine, be distributed among the several counties in England and Wales in proportion

Section 22. to the share which the Local Government Board certify to have been received by each county during the financial year ending the thirty-first day of March next before the passing of this Act out of the grants heretofore made out of the Exchequer in aid of local rates, which will cease to be granted after the passing of this Act, and the share to be so certified shall be estimated in such manner as the Local Government Board direct.

The share to which each county will be entitled will thus depend on the amount received by it during the year ending March 31st, 1889, out of the Exchequer in aid of local rates, and the proportion so determined will remain fixed until Parliament otherwise provides.

(2) In the case of the six counties of South Wales and the Isle of Wight there shall be added to the amount actually received out of such grants as aforesaid such additional sum as the Local Government Board certify to be the amount which each of the said counties and the Isle of Wight would have received if the roads maintained by the county roads boards or the highway commissioners had been main roads.

The Isle of Wight and the counties in South Wales were not subject to the Highway Acts, and consequently no sum was ever granted out of the Exchequer in respect of main roads in these places. Now they are subject to the Highway Acts by virtue of sections 12 and 13 of this Act, consequently it was necessary to make provision for them as stated in the text.

(3) The proportion to be paid to each county shall from time to time be paid under the direction of the Local Government Board to the county council out of the Local Taxation Account. The Board may, if they think proper, vary their certificate, but unless it is so varied their certificate shall be conclusive.

Application of duties on local taxation licences and probate duty grant.

23.—(1) All sums from time to time received by a county council in respect of—

(*a*) The duties on the local taxation licences, whether collected by the Commissioners of Inland Revenue or by the county council; and

(*b*) The probate duty grant,

shall be paid to the county fund and carried to a separate account, in this Act referred to as the Exchequer Contribution Account.

(2) All sums for the time being standing to the Exchequer Contribution Account shall be applied—

(i.) In paying the costs incurred in respect thereof, or otherwise chargeable thereon; and

(ii.) In payment of the sums required by this Act to be paid by the county council in substitution for local grants; and

(iii.) In payment of the grant required by this Act to be made by the county council in respect of costs of union officers; and

(iv.) In repaying to the general county account of the county fund the costs on account of general county purposes for which the whole of the area of the county is liable to be assessed to county contributions;

and shall be so applied in the order above mentioned.

As to payments in substitution for local grants, see section 24, *post*.
As to payments in respect of union officers, see section 26, *post*.

(3) If any surplus remains after paying the above costs and sums, such proportion of the surplus, as the total rateable value of the area of each quarter sessions borough exempt from contributing to any special county purpose, bears to the rateable value of the whole county, shall be paid to the council of that borough, and the remainder shall be applied as follows:

(4) It shall first be applied towards repaying to the proper special accounts of the county fund, the costs on account of which the area of the county, exclusive of such quarter sessions boroughs, is liable to be assessed to county contributions;

(5) Provided that where any of the said quarter sessions boroughs to which a payment of a proportion of the surplus is made as aforesaid is liable to be assessed to county contributions for any of such last-mentioned costs, there shall be deducted from the amount payable to the council of that borough in respect of the said surplus, such sum as would have been raised within the area of the borough if the amount of such costs had been raised by county contributions.

(6) If there remains any sum after repaying the said costs to the said accounts of the county fund, such residue shall be divided as follows, that is to say, such proportion thereof, as the total rateable value of the area of each borough maintaining a separate police force under the County and Borough Police Acts, and no being a quarter sessions borough above-mentioned, bears to the rateable value of the whole county, after deduction of the rateable value of every quarter sessions borough above-mentioned, shall be paid to the council of the borough, and the rest

Section 23. shall be applied towards repaying to the proper special accounts of the county fund the costs of the police, and other costs on account of which the area of the county, exclusive of all the said boroughs, is liable to be assessed to county contributions. Where a town, not being a borough, maintains its own police and receives any payment from the county council in pursuance of this Act towards the pay and clothing of such police, this enactment shall apply to such town as if it were a borough, and as if the sanitary authority therein were the council of the borough.

(7) If any balance remains after all the above payments are made, and is in excess of what the county council consider necessary to carry forward to the next account, such excess shall be divided among the district councils other than the councils of quarter sessions or other boroughs to whom portions of the surplus have been paid under the foregoing provisions of this section, and shall be so divided in proportion to the rateable value of the area of each district.

The district councils are the urban and rural sanitary authorities other than borough councils receiving any payment under the preceding sub-sections. See the definition of district council in section 100, *post*.

As to the rateable value, see sub-section (10) and section 100, *post*.

(8) Where any part of a county is situate within the Metropolitan Police district, this section shall apply as if that part were the area of a borough maintaining a separate police force, save that the sum which would be payable to such borough shall be paid to the district councils of the county districts wholly or partly situate in such part, and shall be divided among such district councils in proportion to the rateable value of the area of each district, or of so much thereof as is within the Metropolitan Police district.

(9) All sums paid in pursuance of this section shall be carried, if paid to the council of a borough, to the borough fund, and if paid to a district council other than the council of a borough, to the district fund, and shall be applied to purposes for which the whole of the borough or district is liable to be rated.

The district fund is, in urban districts, the general district fund under the Public Health Act, 1875, s. 209. In a rural district the sum paid must be applied like a sum raised for general expenses under sections 229 and 230 of the same Act.

(10) The rateable value for the purpose of this section shall be determined according to the standard or basis for county contributions for the time being. Section 23.

As to the rateable value when there is no such standard or basis, see section 100, *post*.

24. Whereas certain grants heretofore made out of the Exchequer in aid of local rates (in this Act referred to as local grants) will by reason of the duties on the local taxation licences and the probate duty grant being by this Act made payable to local authorities, cease, it is therefore hereby enacted as follows:— Payments by county council in substitution for annual local grants out of Exchequer in aid of local rates.

(1) So much of any enactment as requires or authorises payment out of the Exchequer of any local grant in substitution for which the county council is required by this Act to make any payment is hereby repealed as from the thirty-first day of March next after the passing of this Act without prejudice to any right accrued before that day.

It has been held that the intention of this Act was to change the payments to local authorities from the 31st March, 1889, and that as salaries and payments by local authorities for disbursements and services rendered before that date would not come in course of payment before that date, they must be defrayed by the county council: see *Ex parte the West Riding County Council*, L. J. N. C. 1890, 51.

(2) In substitution for local grants, the council of each county shall from time to time as from the said day pay out of the county fund and charge to the Exchequer Contribution Account the following sums, that is to say—

(*a*) They shall pay to the guardians for every poor law union or officer for any other area wholly or partly in the county (as the case may be) such sums as the Local Government Board from time to time certify to be due from the said council in substitution for the local grants towards the remuneration of teachers in poor law schools, and for payments to public vaccinators under section five of the Vaccination Act, 1867; and 30 & 31 Vict. c. 84.

As to the Exchequer Contribution Account, see section 23, *ante*, p. 548. The sums hitherto paid have been the whole of the salaries of teachers in poor law schools.

By 30 & 31 Vict. c. 84, s. 5, on reports made to the Lords of the Privy Council with regard to the number and quality of the vaccinations performed in the several vaccination districts in England, or any of them, the said Lords might from time to time, out of moneys provided by Parliament, and under regulations to be approved by the Treasury, authorise to be paid to any public vaccinators, in addition to the payments received by them

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from guardians or overseers, further payments not exceeding in any case the rate of one shilling for each child whom the vaccinator had successfully vaccinated during the time to which the award of the said Lords related.

In both of these cases the sums to be paid to the guardians of unions or officers of other poor law areas will be ascertained and certified by the Local Government Board.

(*b*) They shall pay to the guardians of every poor law union the school fees paid for pauper children sent from a workhouse to a public elementary school outside the workhouse; and

This provision meets the case of children not educated in the workhouse but sent to a public elementary school.

(*c*) They shall pay to every local authority, for any area wholly or partly in the county, by whom a medical officer of health or inspector of nuisances is paid, one-half of the salary of such officer, where his qualification, appointment, salary, and tenure of office are in accordance with the regulations made by order under the Public Health Act, 1875, or any Act repealed by that Act, but if the Local Government Board certify to the council that such medical officer has failed to send to the Local Government Board such report and returns as are for the time being required by the regulations respecting the duties of such officer made by order of the Board under any of the said Acts, a sum equal to such half of the salary shall be forfeited to the Crown, and the council shall pay the same into Her Majesty's Exchequer and not to the said local authority; and

38 & 39 Vict. c. 55.

At present every urban and rural sanitary authority must appoint one or more medical officers of health and inspectors of nuisances, and in future if any authority avail themselves of the services of a county medical officer under section 17 (3), they are to be deemed to have made the necessary appointment of a medical officer: see sub-section (3), *post*.

The qualification of medical officers of health, save in so far as it is expressly provided by this Act (see section 18, *ante*, p. 544), and the appointment, salary, &c., of these officers and the inspectors of nuisances, are prescribed by sections 189—191 of the Public Health Act, 1875, and various Orders of the Local Government Board, which will be found in *Glen's Local Government Orders*.

As to the reports of the medical officer, see the note to section 19 (1). The medical officer must send copies of these reports to the county council, otherwise they may refuse to pay the contribution towards his salary, but it is only in case of his failure to send the reports to the Board that the amount of the contribution is to be paid into the Exchequer.

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(*d*) They shall pay to the guardians paying the registrars of births and deaths for any district wholly or partly in the county a sum equal to the amount paid out of local grants towards the remuneration of the registrars paid by those guardians during the financial year ending on the thirty-first day of March next after the passing of this Act; and

This will be a fixed amount determined by the sum paid in the year ending the 31st March, 1889.

The Acts relating to registrars of births and deaths are 6 & 7 Will. 4, c. 86; 1 Vict. c. 22; 29 & 30 Vict. c. 113, s. 1; 31 & 32 Vict. c. 122, s. 26; 37 & 38 Vict. c. 88. Registrars are paid by the guardians under 6 & 7 Will. 4, c. 86, s. 29.

(*e*) They shall transfer to that account of the county fund to which the maintenance of any pauper lunatic chargeable to the county is charged, a sum equal to four shillings a week for each such pauper lunatic, for whom the net charge upon the county council, after deducting any amount received by the county council for the maintenance of such lunatic from any source other than local rates, is equal to or exceeds four shillings a week throughout the period of maintenance for which the sum is so transferred; and

Pauper lunatics are chargeable to the county by virtue of justices' orders under 53 Vict. c. 5, s. 290, which re-enacts 16 & 17 Vict. c. 97, s. 98.

(*f*) They shall pay to the guardians of every poor law union wholly or partly in the county a sum equal to four shillings a week for each pauper lunatic chargeable to that union, and maintained in an asylum, registered hospital, or licensed house, for whom the net charge upon the guardians, after deducting any amount received by them for the maintenance of such lunatic from any source other than local rates, is equal to or exceeds four shillings a week throughout the period of maintenance for which the sum is so paid; and

A pauper lunatic is chargeable to the union from which he is sent unless and until he is adjudged to be chargeable to another union: see 53 Vict. c. 5, ss. 286—298.

(*g*) They shall pay to the council of each borough to which the maintenance of any pauper lunatic is chargeable a sum equal to four shillings a week for each such

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pauper lunatic for whom the net charge upon the council of the borough, after deducting any amount received by them for the maintenance of such lunatic from any source other than local rates, is equal to or exceeds four shillings a week throughout the period of maintenance for which the sum is so paid; and

This provision appears to apply to lunatics made chargeable to a quarter sessions borough under 53 Vict. c. 5, s. 290, which supersedes 25 & 26 Vict. c. 111, s. 45, as to which see *Birmingham (Guardians of)* v. *Beaumont*, 8 E. & B. 870; 27 L. J. M. C. 181; 4 Jur. (N.S.) 686; 22 J. P. 82; 2 E. & E. 181; 29 L. J. M. C. 56; 6 Jur. (N.S.) 218; 24 J. P. 85.

(*h*) They shall transfer to that account of the county fund to which the compensation payable to the clerk of the peace of a county, or any other officer of quarter sessions for the county, under section eighteen of the Act of the session of the eighteenth and nineteenth years of the reign of Her present Majesty, chapter one hundred and twenty-six is charged, the amount of such compensation; and

(*i*) They shall, subject to the provisions of this Act, transfer to the police account of the county fund a sum equal to one-half of the costs of the pay and clothing of the police of the county during the preceding year; and

(*j*) They shall, subject to the provisions of this Act, pay to the council of each borough maintaining a separate police force under the County and Borough Police Acts, one-half of the costs of the pay and clothing of the police of that borough during the preceding year; and

(*k*) They shall, if within their county sums are raised by rates for the purpose of the metropolitan police, pay to the receiver for the metropolitan police district in each year, a sum bearing such proportion to the sum actually raised in the same year by rates from the parishes in that county for the said purpose as a Secretary of State certifies to be the proportion which would have been contributed out of the Exchequer under the arrangement in force during the financial year next before the passing of this Act.

(3) A reference in sections one hundred and eighty-nine and one hundred and ninety-one of the Public Health Act, 1875, to officers any portion of whose salary is paid out of moneys

provided by Parliament shall be construed to refer to those officers in respect of whose salaries payment is made by a county council in pursuance of this section. Section 24.

The Public Health Act, 1875, ss. 189 and 191, are as follows :—

"189. Every urban authority shall from time to time appoint fit and proper persons to be medical officer of health, surveyor, inspector of nuisances, clerk and treasurer: Provided that if any such authority is empowered by any other Act in force within their district to appoint any such officer, this enactment shall be deemed to be satisfied by the employment under this Act of the officer so appointed, with such additional remuneration as they think fit, and no second appointment shall be made under this Act. Every urban authority shall also appoint or employ such assistants, collectors, and other officers and servants as may be necessary and proper for the efficient execution of this Act, and may make regulations with respect to the duties and conduct of the officers and servants so appointed or employed.

"Subject in the case of officers any portion of whose salary is paid out of moneys voted by Parliament, to the powers of the Local Government Board under this Act, the urban authority may pay to the officers and servants so appointed or employed such reasonable salaries, wages, or allowances as the urban authority may think proper; and, subject as aforesaid, every such officer and servant appointed under this Act shall be removable by the urban authority, at their pleasure.

"191. A person shall not be appointed medical officer of health under this Act unless he is a legally qualified medical practitioner; and the Local Government Board shall have the same powers as it has in the case of a district medical officer of a union with regard to the qualification, appointment, duties, salary and tenure of office of a medical officer of health or other officer of a local authority any portion of whose salary is paid out of moneys voted by Parliament, and may by order prescribe the qualification and duties of other medical officers of health appointed under this Act.

"The same person may, with the sanction of the Local Government Board, be appointed medical officer of health or inspector of nuisances for two or more districts, by the local authorities of such districts; and the Local Government Board shall by order prescribe the mode of such appointment, and the proportions in which the expenses of such appointment, and the salary and charges of such officer shall be borne by such authorities.

"Any district medical officer of a union may, with the sanction of the Local Government Board, and subject to such conditions as the said board may prescribe, be appointed a medical officer of health; and a medical officer of health may exercise any of the powers with which an inspector of nuisances is invested by this Act.

"In cases of illness or incapacity of the medical officer of health a local authority may appoint and pay a deputy medical officer, subject to the approval of the Local Government Board."

(4) Where any payment towards the pay and clothing of the police of any town has been made in pursuance of section eighteen of the County and Borough Police Act, 1856, which authorises such payment to be made until the discontinuance of the police, the like payment shall, notwithstanding anything in this section, be made by the county council to the authority of such town until such discontinuance. 19 & 20 Vict. c. 69.

(5) Where a sum is payable under this section to the guardians, authority, or officer of a union or other area, and such

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union or area is situate in more administrative counties than one, a proportionate part only of the sum otherwise payable shall be paid by the council of each of such counties to the guardians, authority, or officer, and the Local Government Board shall certify the proportionate part due from the council of each such county.

For the definition of administrative county see section 100, *post*.

(6) The guardians, authority, or officer to whom a sum is payable under this section on the certificate of the Local Government Board, shall submit to the Board their claim to the payment in such manner, and produce such evidence and comply with such rules as the Board from time to time require or make, and the Board shall fix the amount due on the like principles, and may impose the like conditions for the payment thereof as before the passing of this Act.

(7) The Local Government Board may, if they think fit, vary a certificate granted for the purposes of this section, but, unless so varied, it shall be conclusive.

* * * * *

Grant by county council towards costs of officers of union.

26.—(1) After the thirty-first day of March next after the passing of this Act, every county council, other than the London county council, shall grant to the guardians of every poor law union wholly or partly in their county, an annual sum for the costs of the officers of the union and of district schools to which the union contributes; and, until Parliament otherwise determine, the said annual sum shall be such sum as the Local Government Board certify to have been expended by the guardians of each poor law union during the financial year ending the twenty-fifth day of March next before the passing of this Act, on the salaries, remuneration, and superannuation allowances of the said officers (other than teachers in poor law schools), and on drugs and medical appliances.

The grant by the London County Council to the poor law union is regulated by section 43, *post*.

The annual grant has hitherto been provided out of moneys provided by Parliament.

Unions or parishes not in unions may be combined into school districts for the management of any class or classes of infant poor under the age of 16 years chargeable to any such union or parish, who are orphans or deserted by their parents, or whose parents or surviving parent or guardian consent to the placing of such children in the school of the district. The Acts containing provisions as to district schools are 7 & 8 Vict. c. 101; 11 & 12 Vict. c. 82; 29 & 30 Vict. c. 113; 30 & 31 Vict. c. 106; 31 & 32 Vict. c. 122; 42 & 43 Vict. c. 54.

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The amount of the grant will, until Parliament otherwise determine, be the sum certified to have been expended during the year ending 25th March, 1889.

The salaries, &c., of teachers in poor law schools are provided for by the grant out of the Exchequer Contribution Account under section 24, sub-section (2), *ante*.

The grant under this section will be paid out of the exchequer contribution account as provided by section 23, sub-section (2), *ante*.

(2) Where a poor law union is situate in more counties than one, the payment under this section to the guardians of the union shall be borne by the counties in which each portion of such union is situate, in proportion to the rateable value of that portion, ascertained on such day as the Local Government Board may fix.

The rateable value is to be ascertained by the standard or basis of the county rate, or if there is no such standard then by the valuation lists. See section 100, *post*.

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General Provisions as to Transfer.

General provisions as to powers transferred to county council.

28.—(1) The county council shall, as respects the business by this Act transferred to them from quarter sessions or the justices out of sessions, be subject to the provisions and limitations in this Act specified, but, save as aforesaid, shall have and be subject to all the powers, duties, and liabilities, which the quarter sessions, or any committee thereof, or any justice or justices had or were subject to in respect of the business so transferred.

(2) The county council shall, with the exceptions hereinafter mentioned, have power to delegate, with or without any restrictions or conditions as they may think fit, any powers or duties transferred to them by or in pursuance of this Act, either to any committee of the county council appointed in pursuance of this Act, or to any district council in this Act mentioned; the county council may also, without prejudice to any other power whether to appoint committees or otherwise, delegate to the justices of the county sitting in petty sessions any power or duty transferred by this Act to the county council in respect of the licensing of houses or places for the public performance of stage plays, and in respect of the execution as local authority of the Explosives Act, 1875, or of the Act relating to contagious diseases of animals. 38 & 39 Vict. c. 17.

District councils are, as regards highways, the highway authorities, as regards other matters, urban and rural sanitary authorities. See section 100, *post*.

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(3) Provided that the county council shall not under this section delegate any power of raising money by rate or loan.

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PART II.

APPLICATION OF ACT TO BOROUGHS, THE METROPOLIS, AND CERTAIN SPECIAL COUNTIES.

Application of Act to Boroughs.

Certain large boroughs named in the schedule to be county boroughs.

31. Each of the boroughs named in the Third Schedule to this Act being a borough which, on the first day of June, one thousand eight hundred and eighty-eight, either had a population of not less than fifty thousand, or was a county of itself shall, from and after the appointed day, be for the purposes of this Act an administrative county of itself, and is in this Act referred to as a county borough.

Provided that for all other purposes a county borough shall continue to be part of the county (if any) in which it is situate at the passing of this Act, and if a separate commission of assize, oyer and terminer, or gaol delivery is not directed to be executed within the borough, the borough shall, for the purposes of any such commission, and of the service of jurors, and the making of jury lists, be part of the county in which it is specified in the said schedule to be deemed for the purposes of this Act to be situate.

This portion of the Act is only included in the present work in so far as it may affect parishes and unions in boroughs.

Adjustment of financial relations between counties and county boroughs.

32.—(1) An equitable adjustment respecting the distribution of the proceeds of the local taxation licences, and probate duty grant, and respecting all other financial relations, if any, between each county, and each county borough specified in the said schedule as being deemed for the purposes of this Act to be situate in that county, shall be made by agreement, within twelve months after the appointed day, between the councils of each county and each borough, and in default of any such agreement, by the Commissioners appointed under this Act; and such adjustment shall provide, in the case of any expenses which may in future be incurred by the county wholly or partly on behalf of the borough for the liability of such borough to

contribute, and save as provided by this Act, any existing liability to contribute or to incur expense shall, after the appointed day, cease, and an equitable provision for such cessation shall be made in the adjustment. Section 32.

By section 33, *post*, county boroughs are entitled to receive a share from the local taxation account like other administrative counties. But as the amounts payable are to depend to some extent (see section 22, *ante*, p. 547) upon the grants hitherto made to each county before the county boroughs were separated from it, this section provides for an equitable adjustment of the share of each county between that county, exclusive of the county boroughs within it, and the county boroughs. This adjustment may be made by agreement, or, failing agreement, by the Commissioners appointed under section 61, *post*.

The liabilities of the borough to contribute which are to continue are enumerated in sub-section (3).

The court held that, under the above provision, the liability of county boroughs to contribute towards the salary of a stipendiary magistrate whose district included two county boroughs should be redeemed by adjustment: *Ex parte Staffordshire Quarter Sessions*, 54 J. P. 72.

(2) Where a county borough is specified in the said schedule as being deemed for the purposes of this Act to be situate in more than one county, the necessary adjustment shall be made between the counties.

(3) In such adjustment regard shall be had to the existing property, debts, and liabilities (if any) connected with the financial relations of the county and borough, and to the consideration that the county is not to be placed in any worse financial position by reason of the boroughs therein being constituted county boroughs, and that a county borough is not to be placed in a worse financial position than it would have been in if it had remained part of the county and had shared in the division of the sums received by a county in respect of the licence duties and the probate duty grant, as provided by this Act, and to the amount of benefit and value of the services which the borough receives in return for existing contributions, if any, and to all the circumstances of each case which it appears equitable to consider, subject nevertheless to the following provisions:—

(*a*) Where separate commissions of assize, oyer and terminer, and gaol delivery are not directed to be executed in a county borough, the borough council shall contribute a proper share of the costs of and incidental to the assizes of the county:

(*b*) If the borough is not at the passing of this Act a quarter sessions borough, the borough council shall contribute a proper share of the costs of and incidental to the

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quarter sessions and petty sessions of the county, and of and incidental to the coroners of the county or any franchise therein, and if a grant of a court of quarter sessions is hereafter made to the borough, the borough shall redeem the liability to such contribution, on such terms as may be agreed upon, or, in default of agreement, may be determined by arbitration under this Act:

* * * * *

(*d*) Each county borough shall be liable for the maintenance of pauper lunatics in like manner as any other county.

Clause (*c*) of this section was repealed by the Lunacy Act, 1890, 53 Vict. c. 5.

County boroughs will be liable for the maintenance of pauper lunatics adjudged chargeable to them under 53 Vict. c. 5, s. 290. See the note to section 24 (2) (*e*), *ante*, p. 551.

(4) In the adjustment of any financial relations other than the distribution of the proceeds of the licences and probate duty grant, no borough wholly or partially exempt from contributing to any object shall be rendered liable so to contribute or to contribute in greater proportion than at present.

(5) The provisions of Part III. of this Act with respect to the adjustment of property, income, debts, liabilities, and expenses, and to borrowing for the purpose shall apply as if the Commissioners under this Act were the arbitrators in that Part mentioned.

(6) Provided that at any time after the end of five years from the date of an agreement or award adjusting the financial relations of any county and borough, if the council of either the county or borough satisfy the Local Government Board that the adjustment has become inequitable, and that the councils are unable to agree on a new adjustment, the board shall appoint an arbitrator; and such arbitrator shall proceed to make a new equitable adjustment as if he were the Commissioners under this Act, and the provisions of this Act shall apply accordingly. Any new adjustment made by agreement, or by the award of an arbitrator under this section, may, after the expiration of five years from the date of such agreement or award, be altered either by agreement or by arbitration as above mentioned.

(7) Until any adjustment in pursuance of this section has come into operation, the county or borough council shall pay out of the county or borough fund to the borough or county

council, as the case may be, the average annual amount which during the three years next before the appointed day has been expended by the county for the benefit of the borough, or contributed by the borough to the county, as the case may be, but any sum so paid shall be taken into account in the making of the adjustment, and the adjustment shall be made so as to take effect as from the appointed day. Section 32.

(8) Any contribution by a county borough to the county in pursuance of this section shall be required and made in accordance with section one hundred and fifty-three of the Municipal Corporations Act, 1882, and that section, except so far as relates to the appointment of an arbitrator, shall apply in like manner as if every such borough were a quarter sessions borough situate in the county.

(9) Expressions in this section relating to contributions by a borough to a county shall be construed to include any sum raised by the assessment of the parishes or hereditaments in the borough to the county rate.

Provisions as to police and rateable value in county boroughs.

33.—(1) Nothing in this Act with respect to county boroughs shall prevent the continuance of one police force for any county borough and any county, or the consolidation of the police forces of any county borough and any county in like manner as heretofore, but where the provisions of this Act affect the arrangement with respect to the consolidated police force for a county and borough, an adjustment shall be made between the council of the borough and county in accordance with the provisions of this Act. The foregoing provisions of this section shall apply to boroughs which are not county boroughs in like manner as if they were re-enacted and in terms made applicable to those boroughs.

(2) Where, for the purpose of calculating any contribution or payment to be made under this Act, it is necessary to ascertain the rateable value of both a county and a county borough, such rateable value shall be ascertained and fixed by a joint committee composed of representatives of all the councils concerned, and such committee shall for that purpose have all the powers and jurisdiction of quarter sessions and of a committee of justices appointed under the County Rate Act, 1852, and the Acts amending the same, and the number of representatives for the county and each county borough respectively shall be settled by agreement, or in default of agreement by the Local Government Board. 15 & 16 Vict. c. 81.

Section 34. Application of Act with modifications to county boroughs.

34.—(1) The mayor, aldermen, and burgesses of each county borough acting by the council shall, subject as in this Act mentioned, have and be subject to all the powers, duties, and liabilities of a county council under this Act (in so far as they are not already in possession of or subject to the same), and in particular shall, subject to the provisions of this Act as to adjustment between counties and county boroughs, be entitled to receive the like sums out of the Local Taxation Account, and be bound to make the like payments in substitution for local grants and the like grants in respect of the costs of the officers of unions and of district schools as in the case of a county council, so far as the circumstances make such payments applicable, and all the provisions of this Act (including those with respect to the forfeiture on the withholding by a Secretary of State of his certificate as respects the police of the county) shall accordingly, so far as circumstances admit, apply in the case of every such borough, with the necessary modifications, and in particular with the following modifications :—

(*a*) The county borough shall be substituted for the county, and borough fund shall be substituted for county fund, and town clerk shall be substituted for clerk of the peace and clerk of the council :

(*b*) A reference to two or more counties shall include a reference to county boroughs as well as counties.

(*c*) Such powers, duties, and liabilities of the court of quarter sessions or justices as in the case of a county are transferred to the county council shall be transferred to the council of the county borough, whether the same are vested in or attached to the court of quarter sessions or justices of the borough or of the county in which the borough is situate :

(*d*) In the case of the duties collected by the Commissioners of Inland Revenue in respect of the licences for trade carts, locomotives, horses, mules, and horse dealers under any Act of the present session, those Commissioners shall certify the amount collected in each county in like manner as if the county included each county borough specified in the Third Schedule to this Act as deemed to be situate in that county, and the amount as so ascertained shall be divided between the said boroughs, and the residue of the said county in proportion to rateable value as fixed by the joint committee in pursuance of this Act, and until such value is fixed in proportion to rateable value according to

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the standard or basis for county contributions for the time being, and the share so ascertained shall be paid in like manner as if it had been collected in the county borough or in the residue of the county, as the case may be:

(*e*) Any sum standing to the Exchequer Contribution Account of a county borough which remains after payment of the grant required to be made in respect of the costs of union officers shall be carried to the borough fund, or be applied in aid of such rate leviable over the whole of the borough as the council may determine, and the provisions respecting the payment of the same to the general county account of the county fund, and the subsequent application and division thereof, shall not apply.

In many cases the business which has hitherto been administered by justices in or out of sessions, and which is now transferred to county councils, has been administered by the council of a borough as local authority. In such cases no transfer was necessary under this Act.

The provisions as to adjustment are contained in section 32, *ante*.

The sums to be received out of the Local Taxation Account are described in sections 20—22. The payments in substitution for local grants, &c., are contained in sections 24—26.

A reference to two or more counties is contained in section 24, sub-section (5), and section 26, sub-section (1).

The council of the borough, as county council, will have transferred to them all powers and duties transferred by Part I. of this Act, whether these have been exercised hitherto by the county or borough quarter sessions, or the county or borough justices.

The bill relating to licenses for trade carts, &c., did not pass into law, and there is no such Act as is referred to in clause (*d*).

Paragraph (*e*) substitutes, so far as relates to county boroughs, a provision in lieu of section 23, sub-section (2) (iv), *ante*, p. 37. The surplus is to be paid to the borough fund, or in aid of some rate leviable over the whole of the borough.

(2) On the appointed day there shall be transferred to the mayor, aldermen, and burgesses of each county borough all such bridges and approaches thereto, or parts thereof, situate within the borough as were previously repairable by the county or any hundred therein, and the costs of the council in repairing such bridges and approaches, or parts thereof, and in repairing any roads in the borough which by virtue of this Act or any Act applied by this Act are main roads, shall be payable out of the borough fund.

(3) The provisions of this Act with respect to—

(*a*) The constitution, election, proceedings, or position of the county council or the chairman thereof,

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(*b*) The county treasurer, county surveyor, and other county officers,

(*c*) The standing joint committee of the justices and the council, or

(*d*) Coroners, or

(*e*) Gas meters, or

(*f*) The transfer to the council of powers relating to county and other rates, and the preparation or revision of the basis or standard for the county rate ;

shall not apply to county boroughs, nor shall Part IV. of this Act relating to finance apply, save so far as is expressly provided in that Part.

(4) Provided that where the district of any county coroner is wholly situate within a county borough, the coroner for that district shall be appointed by the council of that borough, and the writ for his election may be issued to that council instead of to the county council, and where the district of any county coroner is situate partly within and partly without a county borough, the writ for the election of such coroner shall be issued to the county council, but if there is a joint committee of the county and borough councils for the purpose, the question of the person to be elected shall be referred to that joint committee, and the county council shall appoint the person recommended by the majority of such committee.

(5) If the council of a county borough so require, a joint committee shall from time to time be appointed for the purposes of coroners, consisting of such number of members of the county and borough councils as may be agreed upon, or in default of agreement may be determined by a Secretary of State.

(6) Nothing in this Act shall transfer to the council of any borough any power in relation to the division of the county into polling districts for the purpose of a parliamentary election for the county, the appointment of places of election for the county, the places of holding courts for the revision of the lists of voters, and the costs of, and other matters to be done for, the registration of parliamentary voters for the county.

(7) The powers and duties of the county authority under the Allotments Act, 1887, shall, as respects the borough, continue to be exercised and performed by the Local Government Board.

50 & 51 Vict. c. 48.

It is provided by the Allotments Act, 1887, 50 & 51 Vict. c. 48, s. 16, *ante*, p. 497, that for the purposes of that Act the county authority should be any representative body elected by the inhabitants of the county which

might be established under any future Act, and until such representative body should be established, the powers and duties of the county authority should be exercised and performed by the Local Government Board. The county councils, therefore, are the county authorities under the Act, but this will not apply to county boroughs, in which the Local Government Board will continue to exercise jurisdiction as county authority.

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(8) This Act and the Municipal Corporations Act, 1882, shall be construed so as to give effect to the provisions of this section.

45 & 46 Vict. c. 50.

35. In the case of a quarter sessions borough, not being one of the boroughs named in the Third Schedule to this Act, but containing, according to the census of one thousand eight hundred and eighty-one, a population of ten thousand or upwards, the following provisions shall, on and after the appointed day, apply:

Application of Act to larger quarter sessions boroughs not county counties.

(1) Nothing in this Act shall transfer to the county council any power of the council of the borough as local authority under any Act, or (save as in this Act expressly mentioned) alter the powers, duties, and liabilities of the council of the borough under the Municipal Corporations Act, 1882, but subject to the above provisions and to the savings hereinafter contained, the borough shall form part of the county for the purposes of this Act, and the parishes in the borough shall, subject to the exemptions hereinafter mentioned, be liable to be assessed to county contributions in like manner as the rest of the county.

In many cases where the local authorities for the execution of Acts were in counties the quarter sessions, in boroughs the local authorities under the same Acts were the borough councils. In these cases, while the powers of the quarter sessions are transferred to the county councils by this Act, the councils of the larger boroughs to which this section relates will, under the provision in the text, retain their powers as local authorities. In so far as the powers of the councils under the Municipal Corporations Act, 1882, are altered by this Act, the alterations are indicated in the notes to the incorporated sections of that Act, *post*. Subject, however, to the provisions of this section, the boroughs in question are, for the purposes of this Act, to form part of the county.

(2) Where such borough is at the passing of this Act exempt, in whole or in part, from contributing towards costs incurred for any purpose for which the quarter sessions of the county in which the borough is situate are authorised to incur costs, the parishes in the borough shall not, save as in this Act expressly mentioned, be assessed by the county council to county contributions in respect of costs incurred for any such purpose, nor

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in the case of a partial exemption, be so assessed for any larger sum than such as will give effect to that exemption, but this exemption shall not extend to any costs incurred for the purpose of any powers, duties, or liabilities of the justices of the borough, which will by virtue of this Act be exercised or discharged by the county council nor to any costs of or incidental to the assizes of the county.

41 & 42 Vict. c. 77.

(3) Notwithstanding the last enactment the borough shall, for the purposes of the provisions of the Highways and Locomotives (Amendment) Act, 1878, respecting main roads, form part of the county, and the costs of maintaining, repairing, improving, enlarging, or otherwise dealing with any main road in the borough shall be paid out of the county fund, and the payment of the costs incurred in the execution of the provisions of this Act with respect to main roads shall be a general county purpose for which the parishes of the borough may be assessed to county contributions:

A borough having separate quarter sessions was not included in the definition of an urban authority under the Highway Act, 1878, and therefore the provisions of that Act as to main roads did not apply to such a borough. The boroughs mentioned in this section are now declared to be within the definition of urban sanitary authorities (see the next sub-section), and for the purposes of main roads they are to be deemed to be part of the county, and liable to be assessed like the rest of the county to county contributions.

For the definition of general county purposes, see section 68, *post*.

(4) Provided that—

41 & 42 Vict. c. 77.

(*a*) The borough shall be deemed to be an urban sanitary district within the meaning of the Highways and Locomotives (Amendment) Act, 1878; and the council of the borough shall have the power under the Highways and Locomotives (Amendment) Act, 1878, of making bye-laws respecting locomotives, and authorising locomotives to be used on any road within the borough, save that if any difference is made by such bye-laws or authority between any main road maintained by the county council and the other roads in the borough, such authority and bye-laws shall require the approval of the county council; and

(*b*) The council of the borough shall have power as an urban authority to claim, in accordance with this

Act, to retain the powers and duties of maintaining and repairing any main road in the borough; and Section 35.

(c) The council of the borough may within two years after the passing of this Act apply to the county council to declare such roads in the borough as are mentioned in the application to be main roads within the meaning of the Highways and Locomotives (Amendment) Act, 1878, and the county council shall consider such application and inquire whether such roads are or ought to be main roads within the meaning of the said Act, and shall make or refuse the declaration accordingly, and if the county council refuse to make the declaration, the council of the borough may within a reasonable time after such refusal apply to the Local Government Board, and that Board shall have power, if after a local inquiry they think it just so to do, to make the said declaration, which shall have the same effect as if made by the county council.

(5) The payment of the costs of assizes and sessions shall be a general county purpose for which the parishes in the borough may be assessed to county contributions, and all costs of prosecutions mentioned in section one hundred and sixty-nine of the Municipal Corporations Act, 1882, shall be paid out of the county fund. 45 & 46 Vict. c. 50.

As to what is included in "the costs of assizes and sessions," see section 100, *post*.

Section 169 of the Municipal Corporations Act, 1882, is as follows:—"A municipal corporation of a borough having a separate court of quarter sessions shall be liable to pay the costs and expenses attending the prosecution of any felony committed or supposed to have been committed in the borough, and of any other offence committed or supposed to have been committed in the borough, the costs and expenses attending the prosecution whereof are by law payable as in the case of a felony. The amount of those costs and expenses shall be ascertained as directed by law, and the order of the court for the payment thereof shall be directed to the treasurer of the borough."

As to the offences to which this section applies, see 7 Geo. 4, c. 64, ss. 22, 23; 14 & 15 Vict. c. 55, s. 2; 29 & 30 Vict. c. 52; 30 & 31 Vict. c. 35; 47 & 48 Vict. c, 70, s. 30 (*post*); 48 & 49 Vict. c. 69, s. 18.

(6) The county councillors elected for an electoral division consisting wholly of such borough, or of some part of such borough, shall not act or vote in respect of any question arising before the county council as regards matters involving expenditure on account of which the parishes in the borough are not, for the time being, liable to be assessed equally with the rest of the county to county contributions.

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(7) The county council and the council of any such borough may agree for the cessation in whole or in part of any exemption under this section of the parishes in the borough from assessment to county contributions, in consideration either of payment by the county council of a capital sum, or of an annual payment, or of a transfer of property or liabilities, or of the county council undertaking in substitution for the council of the borough any powers or duties, or partly for one consideration and partly for another, or in any other manner, according as may be determined.

The consideration for the agreement may be all or any of the matters herein stated, or any other consideration which the councils in their discretion may deem adequate. On the cessation of the exemption the parishes in the borough will become liable to be assessed to county contributions in respect of the costs incurred for the purpose, from contributing to which they were previously exempt.

(8) A borough which is a county of a city or a county of a town shall, for the purposes of this section, be deemed to be situate in and form part of the county which it adjoins, or if it adjoins more than one county, then in and of the county of which it forms part for the purposes of parliamentary elections.

General application of Act to boroughs with separate commission of the peace.

36.—(1) Where a borough has a separate commission of the peace, whether a quarter sessions borough or not (and is not a borough named in the Third Schedule to this Act), then, subject to the provisions of this Act, all such powers, duties, and liabilities of the court of quarter sessions or justices of the borough, as in the case of the county are by this Act transferred to the county council, shall cease, and the county council shall have those powers, duties, and liabilities within the area of the borough in like manner as in the rest of the county;

This section applies to all boroughs which have a separate commission of the peace, other than county boroughs, whether they have separate quarter sessions or not, and without regard to their population.

This section provides that such powers of the borough quarter sessions or justices as would, in a county, be transferred to the county council, shall in these boroughs be transferred to the county councils, so that for these purposes the county councils will supersede the borough sessions or justices within the area of the borough. As to the costs incurred for these purposes, see section 35, sub-section (2), *ante*.

(2) Provided that such powers, duties, or liabilities, so far as they are under the Acts relating to pauper lunatics, shall, save as otherwise provided by this Act, be transferred to the council of the borough and not to the county council, and the provisions

of this Act with respect to the transfer to a county council shall apply with the necessary modifications to such transfer to the council of the borough. Section 36.

This sub-section contains an exception to the preceding one. The transfer of the powers of the borough sessions or justices under the Acts relating to pauper lunatics is to the borough council, not to the county council.

Observe that this clause relates only to *pauper* lunatics. This Act does not in any way interfere with the powers and duties of justices in relation to private lunatic asylums.

The expression "save as otherwise provided by this Act," has reference to the provisions in section 38, sub-section (1), *post*, whereby in the smaller quarter sessions boroughs the powers, &c., of the borough justices relating to pauper lunatic asylums are transferred to the county councils.

Application of Act to quarter sessions boroughs hereafter created.

37. The grant after the passing of this Act of a court of quarter sessions to any borough, not being a county borough, shall not affect the powers, duties, or liabilities of the county council as respects the area of that borough, nor exempt the parishes in the borough from being assessed to county contributions for any purpose to which such parishes were previously liable to be assessed, and shall not confer or impose on the mayor, aldermen, and burgesses, or the council of such borough, any powers, duties, or liabilities further than such as are necessary for establishing and maintaining the court of quarter sessions in the borough.

The effect of this section is that the grant of separate quarter sessions will not in future affect the position of a borough under this Act, so far as relates to county councils and county contributions.

In the case of a grant of quarter sessions to a county borough which has not at present separate quarter sessions, the borough is to redeem its liability to contribute a share of the costs of quarter sessions and coroners. See section 32, sub-section (3).

Application of Act to smaller quarter sessions boroughs with population under 10,000.

38. Where a borough having a separate court of quarter sessions contained according to the census of one thousand eight hundred and eighty one a population of less than ten thousand, the following provisions shall after the appointed day apply:—

(1) There shall be transferred to the county council the powers, duties and liabilities of the council and justices of the borough as regards the provision, enlargement, maintenance, management, and visitation of and other dealing with asylums for pauper lunatics:

These powers, duties, and liabilities are similar to those transferred from the quarter sessions in counties under section 3, sub-section (vi.), *ante*, p. 540. As to the larger quarter sessions boroughs, see section 36 (1), *ante*, p. 568.

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(2) There shall be transferred to the county council the powers, duties, and liabilities of the council of the borough—

(*a*) As regards coroners; and

(*b*) As regards the appointment of analysts under the Acts relating to the sale of food and drugs; and

(*c*) Under the Acts relating to—

(i.) Reformatory and industrial schools; and

(ii.) Fish conservancy; and

(iii.) Explosives; and

(*d*) Under the Highways and Locomotives (Amendment) Act, 1878;

Provided that the transfer by this section—

(*a*) Shall be subject to the provisions in this Act for the protection of existing officers and the continuance of existing contracts; and

(*b*) Shall not, save as respects the coroners, affect the powers, duties, and liabilities of the council of the borough under the Municipal Corporations Act, 1882:

(3) The borough shall be an urban sanitary district within the meaning of the Highways and Locomotives (Amendment) Act, 1878:

41 & 42 Vict. c. 77.

(4) The council of the borough may, within two years after the passing of this Act, apply to the county council to declare such roads in the borough as are mentioned in the application to be main roads within the meaning of the Highways and Locomotives (Amendment) Act, 1878, and the county council shall consider such application, and inquire whether such roads are or ought to be, main roads within the meaning of the said Act, and shall make or refuse the declaration accordingly, and if the county council refuse the declaration, the council of the borough may, within a reasonable time after such refusal, apply to the Local Government Board, and that Board, after a local inquiry, shall have power, if they think it just so to do, to make the said declaration, which shall have the same effect as if it had been made by the county council:

(5) The area of the borough shall for the purposes of the above-mentioned Acts and all other administrative purposes of the county council be included in the county, as if the borough had not a separate court of quarter sessions, and accordingly shall be subject to the authority of the county council and the county coroners, and may be annexed by the county council to a coroner's district of the county, and the parishes in the borough shall be liable to be assessed to a county contributions:

(6) Any property, debts, or liabilities of the county or of any borough affected by this or the next succeeding section (including the charge to be made for lunatics which but for this Act would have been maintainable by the borough) may be adjusted in manner provided by Part Three of this Act:

The provisions of this Act as to adjustment are contained in section 62, *post*.

As to lunatics maintainable by the borough, see the note to section 24, sub-section (2) (*g*), *ante*, p. 553. The lunatics in question will now be chargeable to the county.

(7) It shall be lawful for Her Majesty the Queen, on petition from the council of any borough to which this or the next succeeding section applies, by Order in Council, to revoke the grant of a court of quarter sessions to the borough, and by letters patent to revoke the grant of a commission of the peace for the borough, and to make such provision as to Her Majesty seems proper for the protection of interests existing at the date of the revocation, and after the date of the revocation all enactments and laws relating to courts of quarter sessions and justices and their jurisdiction shall apply, as if such court of quarter sessions or commission of the peace, as the case may be, did not exist:

(8) A borough which is a county of a city or a county of a town shall, for the purposes of this and the next succeeding section, and if Her Majesty revokes the grant of a court of quarter sessions or a commission of the peace to such borough, then also for all purposes of quarter sessions and justices, be deemed to be situate in and form part of the county of which it forms part for the purpose of parliamentary elections:

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(9) Where this section applies to a cinque port it shall apply also to all the members thereof, and those members when not situate in a quarter sessions borough shall form part of the county for all purposes.

Application of Act to all boroughs with population under 10,000.

39.—(1) Where a borough, whether with or without a separate court of quarter sessions, contained according to the census of one thousand eight hundred and eighty-one a population of less than ten thousand, then after the appointed day all powers, duties, and liabilities of the mayor, aldermen, and burgesses, or council of the borough, or the watch committee of the borough in relation—

(*a*) To the police force of the borough, or

(*b*) To the appointment of analysts under the Acts relating to the sale of foods and drugs, or

41 & 42 Vict. c. 74. 47 & 48 Vict. cc. 13, 47. 49 & 50 Vict. c. 82.

(*c*) To the execution of the Contagious Diseases (Animals) Acts, 1878 to 1886, or the Destructive Insects Act, 1877, or

40 & 41 Vict. c. 68.

(*d*) To gas meters, or

(*e*) To weights and measures, if the council exercise any jurisdiction in relation thereto,

shall cease, and, subject to the provisions of this Act as to the members of the police force holding office on the said day, the area of the borough shall for all purposes of the Acts relating to the county police force, or others matters above in this section mentioned, form part of the county in like manner as if it were not a borough;

The smaller boroughs to which this section applies are thus merged in the county, and the parishes in such boroughs will be rated to the county rate for all purposes.

(2) Provided that nothing in this section shall transfer to the county council any powers, duties or liabilities under section thirty-four of the Contagious Diseases (Animals) Act, 1878, as amended by section nine of the Contagious Diseases (Animals) Act, 1886.

41 & 42 Vict. c. 74. 49 & 50 Vict. c. 32.

The provisions of the Contagious Diseases (Animals) Act, 1886, are set out *ante*, p. 428. By that Act the powers of local authorities under the Contagious Diseases (Animals) Acts and Orders, as amended by that Act, applying to dairies and milkshops, are vested in sanitary authorities. The powers of a borough council, as urban authority under that Act, are preserved by this sub-section.

(3) The urban authority for any borough or town with such population as above in this section mentioned shall cease to

be the local authority under the Acts relating to explosives, and the county council shall have the like authority under the said Acts in the said borough or town as they have in the rest of their county. Section 39.

Application of Act to Metropolis.

40. In the application of this Act to the Metropolis, the following provisions shall have effect:— Application of Act to Metropolis as county of London.

(1) The Metropolis shall, on and after the appointed day, be an administrative county for the purposes of this Act by the name of the Administrative County of London.

For the definition of "the Metropolis," see section 100, *post*. The term "administrative county" is defined by the same section. It will be seen by the next sub-section that the county of London is to be a separate county for all purposes.

(2) Such portion of the administrative county of London as forms part of the counties of Middlesex, Surrey, and Kent, shall on and after the appointed day be severed from those counties, and form a separate county for all non-administrative purposes by the name of the county of London; and it shall be lawful for Her Majesty the Queen to appoint a sheriff of that county, and to grant a commission of the peace and court of quarter sessions to that county; and, subject to the provisions of this Act, all enactments, laws, and usages with respect to counties in England and Wales, and to sheriffs, justices, and quarter sessions shall, so far as circumstances admit, apply to the county of London:

(3) Provided that, for the purpose of the jurisdiction of the justices under such commission, and of such court, as well as other non-administrative purposes, the county of the city of London shall continue a separate county, but if and when the mayor, commonalty, and citizens of the city assent to jurisdiction being conferred therein on such justices and court may by commission under the Great Seal be made subject to the jurisdiction thereof.

The city of London will be part of the administrative county of London for the purposes of this Act. For non-administrative purposes it will be a separate county until the event mentioned in the text.

(4) The number of the county councillors for the administrative county of London, shall be double the number

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of members which at the passing of this Act, the parliamentary boroughs in the metropolis are authorised by law to return to serve in Parliament; and each such borough, or if it is divided into divisions, each division thereof, shall be an electoral division for the purposes of this Act, and the number of county councillors elected for each such electoral division shall be double the number of members of Parliament which such borough or division is at the passing of this Act entitled to return to serve in Parliament:

(5) Provided that the number of county aldermen in the administrative county of London shall not exceed one-sixth of the whole number of county councillors.

(6) The provisions of this Act with respect to the powers, duties, and liabilities of county councils, and the transfer of property, debts, and liabilities of counties to county councils, shall apply to the administrative county of London in like manner, so nearly as circumstances admit, as if the quarter sessions, justices, and clerks of the peace of the counties of Middlesex, Surrey, and Kent had been, so far as regards the metropolis, the quarter sessions, justices, and clerk of the peace for the administrative county of London:

(7) Provided that any property, debts, or liabilities of the county of Kent shall not, by reason only of this enactment, be vested in the county council of London, but such property, debts, and liabilities, and also the property, debts, and liabilities of the counties of Middlesex and Surrey, shall be apportioned between the portions of those counties situate within the metropolis and the portions situate outside the metropolis in such manner as may be determined by agreement between the respective county councils, or in default of agreement by the Commissioners under this Act, and the property, debts, and liabilities apportioned to the portions within the metropolis shall be the property, debts, and liabilities of the whole of the administrative county of London.

(8) There shall also be transferred to the London County Council the powers, duties, and liabilities of the Metropolitan Board of Works, and after the appointed

day that board shall cease to exist, and the property, debts, and liabilities thereof shall be transferred to the London County Council, and that council shall be in law the successors of the Metropolitan Board of Works.

(9) If the London County Council borrow for the purposes of this Act they shall borrow in accordance with the provisions of the Acts relating to the Metropolitan Board of Works, but save as aforesaid Part Four of this Act shall apply to the London County Council when acting as successors of the Metropolitan Board of Works, and the costs incurred when so acting shall be paid out of the county fund, and the payment thereof shall be a general county purpose.

Position of city of London, and application of Highway Acts.

41.—(1) Of the powers, duties, and liabilities of the court of quarter sessions and justices of the city of London—

(*a*) Such of them as would, if the city were a quarter sessions borough, with a population exceeding ten thousand, be exercised by virtue of this or any other Act by the council of the borough, shall be transferred to the mayor, commonalty, and citizens of the city acting by the council (in this Act referred to as the common council); and

(*b*) Such of them as would, in the said case, be by virtue of this Act exercised and discharged by the county council shall cease, and the county council shall, subject to the provisions of this Act, have those powers, duties, and liabilities within the city of London in like manner as within the rest of the administrative county of London.

(2) The provisions of this Act with respect to the transfer to a county council shall apply with the necessary modifications to such transfer to the common council, and the common council shall be entitled to receive from the London County Council in respect of each pauper lunatic, the same amount as is required by this Act to be paid by any other county council to the council of a borough.

The amount required to be paid for each pauper lunatic is that provided by section 24 (2), *ante*, p. 553.

(3) Where at the passing of this Act the Metropolitan Board of Works or the quarter sessions of Middlesex are authorised to

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incur costs for any purpose, and the common council of the city are not liable to contribute to such costs, the parishes in the city of London shall not, save as in this Act expressly mentioned, be liable to be assessed to county contributions in respect of costs incurred by the county council for such purpose, but this exemption shall not extend to any costs incurred for the purpose of any powers, duties, or liabilities of the quarter sessions or justices of the city of London, which will be exercised and discharged by the London County Council.

41 & 42 Vict. c. 77.

(4) The provisions of the Highways and Locomotives (Amendment) Act, 1878, with respect to main roads, as amended by this Act, shall extend to the metropolis in like manner as if the expression "urban sanitary district" in that Act included, as respects the metropolis, the city of London, and a parish in Schedule A., and a district in Schedule B. of the Metropolis Management Act, 1855, as amended by subsequent Acts, and as if the Commissioners of Sewers, or vestry, or district board (as the case may be) were the urban sanitary authority: Provided that—

18 & 19 Vict. c. 120.

(*a*) In the city of London the common council shall have the power under the Highways and Locomotives (Amendment) Act, 1878, of making bye-laws respecting locomotives, and authorising locomotives to be used on any road within the city, save that if any difference is made by such bye-laws or authority between any main road maintained by the county council and the other roads in the city, such authority and bye-laws shall require the approval of the county council; and

(*b*) The common council in the city of London, and in any other part of the metropolis, the vestry, or district board, shall be deemed to be a district council and an urban authority within the meaning of the provisions of this Act with respect to main roads, and may accordingly claim to retain the power of maintaining and repairing a main road, and in such case shall have all such powers and duties of maintaining, repairing, improving, and enlarging, and otherwise dealing with the main road as they would have if it were an ordinary highway repairable by them, and such powers and duties shall in the city of London be discharged by the Commissioners of Sewers.

(5) The payment of the costs of assizes and sessions shall be

general county purpose for which the parishes in the city may be assessed to county contributions, and all such costs of prosecutions in the city as are by law payable out of the county rate shall be paid out of the county fund.

As to what is included in the costs of assizes and sessions, see section 100, *post*.

(6) The county councillors elected for the city shall not act or vote in respect of any question arising before the county council as regards matters involving expenditure on account of which the parishes in the city are not for the time being liable to be assessed equally with the rest of the administrative county to county contributions.

(7) The London county council and the common council of the city of London may agree for the cessation in whole or in part of any exemption under this section from assessment, in consideration either of payment by the county council of a capital sum, or of an annual payment, or of a transfer of property or liabilities, or of the county council undertaking, in substitution for the common council, any powers or duties, or partly for one consideration and partly for another, or in any other manner, according as may be determined.

(8) The sheriffs of the city of London shall not have any authority except in the city.

Arrangements for paid chairman and sitting of quarter sessions for London.

42.—(1) If the London county council petitions Her Majesty the Queen in that behalf, it shall be lawful for Her Majesty from time to time to appoint a barrister of not less than ten years' standing to be paid chairman or deputy chairman, or one of the paid deputy chairmen, as the case may be, of the quarter sessions for the county of London.

(2) Any person so appointed shall hold office during good behaviour, and shall, by virtue of his office, be a justice of the peace for the county of London.

(3) There shall be paid to him out of the county fund as a general county purpose such yearly salary, not exceeding that stated in the petition in consequence of which the appointment was made, as Her Majesty directs.

(4) Such chairman or deputy chairman shall not, during his office, be eligible to serve in Parliament, and shall not during his continuance in office practise as a barrister.

(5) Where there is any such paid chairman or deputy chair-

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man of the quarter sessions, the court may be held before such chairman or deputy chairman alone.

(6) Separate courts of quarter sessions may be held at different parts of the county of London at the same time if so directed by the county council with the approval of a Secretary of State, and every court of general sessions of the peace for the county of London, and every adjournment thereof, shall have the same jurisdiction in all respects, including the power of hearing and determining appeals, as if such court were quarter sessions.

(7) The London county council may from time to time submit to a Secretary of State a scheme for regulating the holding of courts of quarter sessions in London either at any one place or at different places, and in the latter case either at the same time or at different times, and for determining the legal character of each session so held, that is to say, whether quarter, general, original, or adjourned sessions, or otherwise, and for making such regulations respecting committals for trial, recognizances, depositions, and other matters as are necessary or proper for giving effect to the scheme, and such scheme, when approved by a Secretary of State, shall be published in the *London Gazette*, and thereupon shall have effect as if it were enacted in this Act.

(8) Until the quarter sessions for the county of London constitute special sessional divisions, every petty sessional division of the counties of Middlesex, Surrey, and Kent existing at the appointed day, or so much of such division as is situate in the county of London, shall form a special or petty sessional division of the county of London.

(9) Where any special or petty sessional division of the counties of Middlesex, Surrey, and Kent, existing at the appointed day, is situate partly within and partly without the county of London, so much thereof as is situate without the said county shall, until any alteration is made by the quarter sessions for the county of Middlesex, Surrey, or Kent, as the case may be, be a special or petty sessional division of that county.

(10) The quarter sessions for the county of London shall be substituted for the general assessment sessions under the Valuation (Metropolis) Act, 1869, and have all the jurisdiction vested in those sessions, and shall exercise the same within the same area. Upon the hearing of any appeals in relation to property in the city of London, such two members of the court of quarter sessions of the city of London as may be appointed by that court

32 & 33 Vict. c. 67.

for the purpose, shall be entitled to attend and sit as members of the quarter sessions for the county of London. Section 42.

The general assessment sessions will therefore cease to exist. The London quarter sessions will exercise the jurisdiction of that court within the same area, *i.e.*, in all unions or parishes not in unions wholly or for the greater part in value situate within the jurisdiction of the Metropolitan Board of Works under the 18 & 19 Vict. c. 120.

The concluding part of this sub-section provides for the representation of the city of London, having regard to the fact that the city may not be within the jurisdiction of the London quarter sessions. See section 40 (3), *ante*, p. 573.

(11) The enactments respecting the times for holding sessions of the peace for the county of Middlesex, and the appointment and payment of any assistant judge or deputy assistant judge, or of a person to preside in a second court at any sessions in the county of Middlesex, shall cease to apply to the county of Middlesex. 7 & 8 Vict. c. 71. 22 & 23 Vict. c. 4. 37 & 38 Vict. c. 7.

(12) Quarter sessions for the counties of Middlesex, Surrey, and Kent respectively may be held, and the justices of each of those counties may hold special and petty sessions for any division of such county, and appoint a petty sessional or occasional court-house, at any place in the county of London, and for all purposes relating to such sessions or any business transacted at such court-house, such place shall be deemed to be within the county and division for which the justices holding the same are justices, but no jurors shall be summoned for such sessions from within the county of London.

(13) Nothing in this Act shall alter the powers or duties of the justices, quarter sessions, recorder, or common serjeant of the city of London, further or otherwise than is expressly provided or than the powers and duties of the justices or quarter sessions of any county are altered.

(14) Provided that from and after the appointed day the rights claimed by the court of common council to appoint to the offices of common serjeant, and judge of the City of London Court shall cease, and in any future vacancy in each of the said offices, it shall be lawful for Her Majesty the Queen to appoint a duly qualified barrister to be such common serjeant, or judge; and from and after the next vacancy no recorder shall exercise any judicial functions unless he is appointed by Her Majesty to exercise such functions.

43.—(1) In the administrative county of London the county council:— Grant by London county council to poor law unions.

(*a*) Shall pay to the guardians for every poor law union

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wholly in the county such sums as the Local Government Board from time to time certify to be due from the said council in substitution for the local grants towards the remuneration of poor law medical officers, and towards the cost of drugs and medical appliances; and

(*b*) Shall grant to the guardians of every poor law union wholly in their county an amount equal to fourpence a day per head for every in-door pauper maintained in that union, and such grant, during the five local financial years beginning on the appointed day, shall be reckoned according to the average number of in-door paupers so maintained during the five financial years ending on the twenty-fifth day of March next before the passing of this Act, and shall, after the end of the said five local financial years, unless Parliament otherwise determine, continue to be reckoned in accordance with the same average number; and

(*c*) Shall pay to the guardians of every poor law union, a portion of which only is situate in their county, such proportion of the annual sum which is, under the other provisions of this Act, payable by the county council of a county to the guardians of that union, as the rateable value of the portion within the administrative county of London bears to the rest of the union.

As to what is the administrative county of London, see section 40 (1), *ante*, p. 573.

The payment under (*a*) is similar to that made by other county councils under sections 24 and 26, *ante*, p. 551.

The grant in respect of in-door paupers is to be in addition to any payment made out of the Metropolitan Common Poor Fund. See section 94, *post*.

For the definition of "in-door paupers," see the next sub-section.

As to the estimate of the average number, see sub-section (3), *infra*.

Payments are made by county councils to guardians under sections 24 and 26, *ante*, p. 551.

(2) For the purposes of this section the expression "in-door pauper" includes all paupers maintained in a workhouse, and all paupers maintained in any district school, separate school, separate infirmary, sick asylum, hospital for infectious diseases, or institution for the deaf, dumb, blind, or idiots, or in any certified school under the Act of the session of the twenty-fifth and twenty-sixth years of the reign of Her Majesty, chapter forty-three, and includes any children boarded-out, whether within or without the limits of the union, and in the metropolitan

asylum district includes all inmates of any asylum for imbeciles provided by the managers of that district, but excludes paupers relieved in casual wards, and such number of in-door paupers in a workhouse or in a district or separate school or in a separate infirmary or asylum, as exceeded the number prescribed by the Local Government Board for that workhouse, school, infirmary or asylum, and also excludes paupers maintained for part only of a day: Provided always, that any paupers maintained under any contract or agreement in a workhouse other than that of the union to which they are chargeable, shall be included only in the number of in-door paupers of the union to which they are so chargeable.

(3) The average number of paupers shall be estimated in such manner as the Local Government Board direct, and shall be certified by the Board. The Board may, if they think proper, vary their certificate, but unless it is so varied, their certificate shall be conclusive.

Transfer of duties under 32 & 33 Vict. c. 67, of clerk of metropolitan asylum managers.

44. On and after the appointed day all powers and duties of the clerk to the managers of the metropolitan asylums district under the Valuation (Metropolis) Act, 1869, shall be transferred to the clerk of the county council of London, and the said Act shall be construed as if the county council were substituted therein for the managers of the metropolitan asylums district.

By the Valuation (Metropolis) Act, 1869, 32 & 33 Vict. c. 67, s. 14, a duplicate of the revised valuation list is to be sent to the clerk of the managers of the metropolitan asylums district; and by section 16 the list so sent is to be deposited at the office of such managers. The clerk is by section 17 to cause the totals of the gross and rateable values of all the lists to be printed, and a copy to be sent to every assessment committee, and to the clerks of the peace for every county in which any parish to which such totals relate is situate. By section 42 (8), the assessment committee are to approve and send the lists to the clerk before the 1st of November in each year, and by sub-section (1) the clerk is to send out the printed totals before the 1st of December, and is to return the valuation list to the committee not sooner than 14, nor later than 21 days after the totals are sent out.

* * * * *

Merger of liberties in county.

48.—(1) For all purposes of this Act, every liberty and franchise of a county, wholly or partly exempt from contribution to the county rate, shall, save as may be otherwise provided by or in pursuance of this Act, form part of the county of which it forms part for the purposes of parliamentary elections.

(2) The provisions of this Act with respect to the transfer to the county council of the powers, duties, and liabilities of the quarter sessions and justices of a county, and of their property,

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debts, and liabilities, whether vested in or attaching to the clerk of the peace or any justice or justices or otherwise on behalf of the county, shall apply to every such liberty and franchise as above mentioned in like manner in all respects as if they were herein re-enacted and in terms made applicable to such liberty and franchise; and the county council shall have and exercise in every such liberty and franchise the powers and duties transferred to them by this Act from the quarter sessions and justices of the county;

(3) Provided that where at the passing of this Act the police force in such liberty or franchise is under the control of the quarter sessions for such liberty or franchise, there shall be one police force for the whole administrative county under the county council, and the quarter sessions of such liberty or franchise shall appoint such number of the members of the standing joint committee under this Act as may be agreed upon by the county council, the quarter sessions of the county, and the quarter sessions of the liberty or franchise, or in default of agreement may be determined by a Secretary of State.

(4) The Cinque Ports and two ancient towns and their members shall for all purposes of the county council and of the powers and duties of quarter sessions and justices out of sessions under this Act form part of the county in which they are respectively situate without prejudice nevertheless to the position of any such port, town, or member as a quarter sessions borough under the Municipal Corporations Act, 1882, as amended by this Act, and without prejudice to the existing privileges of such ports, towns, and members as respects matters which are not affected by this Act.

45 & 46 Vict. c. 50.

Power to make Provisional Order for Scilly Islands.

49.—(1) It shall be lawful for the Local Government Board to make a Provisional Order for regulating the application of this Act to the Scilly Islands, and for providing for the exercise and performance in those islands of the powers and duties both of county councils and also of authorities under the Acts relating to highways and the Public Health Act, 1875, and the Acts amending the same, and for the application to the islands of any provisions of any Act touching local government, and any such Order may provide for the establishment of councils and other local authorities separate from those in the county of Cornwall, and for the contribution by the Scilly Islands to the county council of Cornwall in respect of costs incurred by the county council for matters specified in the said Order as benefiting the Scilly Islands, and such Order may also provide for all

matters which appear to the Local Government Board necessary or proper for carrying the Order into full effect. Section 49.

(2) Any such Order shall not be in force until it is confirmed by Parliament.

(3) Subject to the provisions of a Provisional Order under this Act, the county council of Cornwall shall have no greater powers or duties in the Scilly Islands than the quarter sessions of Cornwall have hitherto in fact exercised or performed therein, and the Scilly Islands shall not be included for the purposes of this Act in any electoral division of the county of Cornwall.

PART III.

Boundaries.

Boundary of county for first election.

50.—(1) The first council elected under this Act for any administrative county shall, subject as hereinafter mentioned, be elected for the county at large as bounded at the passing of this Act for the purpose of the election of members to serve in Parliament for the county: Provided always, that—

(*a*) This enactment shall not apply to the boundary between two administrative counties which are portions of one entire county, and in case of those administrative counties, the boundary between the portions, as existing for the purposes of county rate, shall, subject to any change made by or in pursuance of this Act, be the boundary of the administrative county for which the council is elected; and,

(*b*) Where any urban sanitary district is situate partly within and partly without the boundary of such county, the district shall be deemed to be within that county which contains the largest portion of the population of the district, according to the census of one thousand eight hundred and eighty-one.

(*c*) Where any portion of an administrative county has before the passing of this Act been transferred to another administrative county for the purposes of the Acts relating to the police or Contagious Diseases (Animals) or otherwise, nothing in this Act shall affect such transfer.

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47 & 48 Vict. c. ccxxxii.

(*d*) The wapentake of the ainsty of York (except so much as is included in the municipal borough of York as extended by the York Extension and Improvement Act, 1884) shall for all purposes of this Act be deemed to be part of the west riding of the county of York.

(2) The county council elected under this Act shall have for the purposes of this Act authority throughout the administrative county for which it is elected, and the administrative county as bounded for the purpose of the election shall, subject to alterations made in manner hereinafter mentioned, be for all the purposes of this Act the county of such county council.

(3) If any difference arises as to the county which contains the largest portion of the population of any such district as above in this section mentioned, such difference shall be referred to the Local Government Board, whose decision shall be final.

(4) This section applies to an administrative county within the meaning of this Act, save that it shall not apply to the administrative county of London, nor to any county borough, and any place which, though forming part of any such borough for the purposes of the election of members to serve in Parliament, is not within the municipal boundary of such borough shall, notwithstanding anything in the foregoing provisions of this section, form, for the purposes of this section, part of the county in which such place is situate.

* * * * *

Consideration of alterations of boundaries by county councils.

53.—(1) Every report made by the Boundary Commissioners under the Local Government (Boundaries) Act, 1887, shall be laid before the council of any administrative county or county borough affected by that report.

(2) It shall be the duty of the council to take into consideration such report, and to make such representations to the Local Government Board as they think expedient for adjusting the boundaries of their county, and of other areas of local government partly situate in their county, with a view of securing that no such area shall be situate in more than one county.

Future alterations of boundaries.

54.—(1) Whenever it is represented by the council of any county or borough to the Local Government Board—

(*a*) That the alteration of the boundary of any county or borough is desirable; or

(*b*) That the union, for all or any of the purposes of this Act, of a county borough with a county is desirable; or

(*c*) That the union, for all or any of the purposes of this Act, of any counties or boroughs or the division of any county is desirable; or

(*d*) That it is desirable to constitute any borough having a population of not less than fifty thousand into a county borough; or

(*e*) That the alteration of the boundary of any electoral division of a county, or of the number of county councillors and electoral divisions in a county, is desirable; or

(*f*) That the alteration of any area of local government partly situate in their county or borough is desirable,

the Local Government Board shall, unless for special reasons they think that the representation ought not to be entertained, cause to be made a local inquiry, and may make an order for the proposal contained in such representation, or for such other proposal as they may deem expedient, or may refuse such order, and if they make the order may by such order divide or alter any electoral division.

(2) Provided that in default of such representation by the council of any county or borough before the first day of November, one thousand eight hundred and eighty-nine, the Local Government Board may cause such local inquiry to be made, and thereupon may make such order as they may deem expedient.

(3) Provided that if the order alters the boundary of a county or borough, or provides for the union of a county borough with a county, or for the union of any counties or boroughs, or for the division of any county, or for constituting a borough into a county borough, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(4) Where such order alters the boundary of a borough, it may, as consequential upon such alteration, do all or any of the following things, increase or decrease the number of the wards in the borough, and alter the boundaries of such wards, and alter the apportionment of the number of councillors among the wards, and alter the total number of councillors, and in such case, make the proportionate alteration in the number of aldermen.

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(5) At any time before the appointed day, the Local Government Board may make an order in pursuance of this section without any such representation as in this section mentioned.

* * * * *

Future alteration of county districts and parishes and wards and future establishment of urban districts.

57.—(1) Whenever a county council is satisfied that a *primâ facie* case is made out as respects any county district not a borough, or as respects any parish, for a proposal for all or any of the following things; that is to say—

(*a*) The alteration or definition of the boundary thereof;

(*b*) The division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish;

(*c*) The conversion of any such district or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts;

(*d*) The division of an urban district into wards; and

(*e*) The alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards,

the county council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the Local Government Board, Education Department, or other Government department as may be prescribed, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly.

This section applies to the alteration of boundaries of urban districts (other than boroughs), rural districts, and parishes, the establishment of urban districts, and the creation or alteration of wards in urban districts.

The existing powers for the alteration, &c., of parishes are those of the Local Government Board under the Acts mentioned in the note to sub-section (7), *infra*.

Urban districts are at present created under the Public Health Act, 1875, which also deals with the division of such districts into wards and the alteration of wards. The provisions of that Act as to these matters will be superseded by the text.

The "prescribed" notices to Government departments are those prescribed by the Local Government Board under section 87, sub-section (4), *post*.

The order under this sub-section is made by the county council, subject, however, to the provisions contained in the following sub-sections.

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(2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit, and if it relates to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council, or of the apportionment of the members among the wards, shall come into operation upon being finally approved by the county council.

The "prescribed manner" means as the Local Government Board may prescribe. See section 87, sub-section (4), *post*.

After the notices here referred to have been given, the order, if it relates to the matters above specified, must be again approved by the county council, and it will then come into operation at once. The cases mentioned are those specified in sub-section (1) (*d*) and (*e*).

(3) In any other case the order shall be submitted to the Local Government Board; and if within three months after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the council of any district affected by the order, or any number of county electors registered in that district or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward, or if the order relates only to a parish, any number of county electors registered in that parish, not being less than one-sixth of the total number of electors in that parish, petition the Local Government Board to disallow the order, the Local Government Board shall cause to be made a local inquiry, and determine whether the order is to be confirmed or not.

"In any other case" means in any of the cases mentioned in sub-section (1) (*a*) (*b*) and (*c*).

During three months the order will be of no effect. If petitioned against as here provided, the Local Government Board must hold a local inquiry under section 87. After such inquiry the board may refuse to confirm the order, or they may confirm it with modifications. See sub-section (5), *infra*.

(4) If any such petition is not presented, or being presented is withdrawn, the Local Government Board shall confirm the order.

(5) The Local Government Board, on confirming an order, may make such modifications therein as they consider necessary for carrying into effect the objects of the order.

(6) An order under this section, when confirmed by the Local Government Board, shall be forthwith laid upon the table of

Section 57. both Houses of Parliament, if Parliament be then sitting, and, if not, forthwith after the then next meeting of Parliament.

(7) This section shall be in addition to, and not in derogation of, any power of the Local Government Board in respect of the union or division or alteration of parishes.

The powers of the Local Government Board as to the adjustment of parishes are conferred by 30 & 31 Vict. c. 106, s. 3; 34 & 35 Vict. c. 70; 39 & 40 Vict. c. 61, ss. 1—9; 42 & 43 Vict. c. 54, *ante*, p. 51; 45 & 46 Vict. c. 58, *ante*, p. 181.

Additional power of Local Government Board as to unions.

58. The Local Government Board, where it appears expedient so to do with reference to any poor law union which is situate in more than one county instead of dissolving the union may by order provide that the same shall continue to be one union for the purposes of in-door paupers or any of those purposes, and shall be divided into two or more poor law unions for the purpose of out-door relief, and may by the order make such provisions as seem expedient for determining all other matters in relation to which such union is to be one union or two or more unions.

The Local Government Board has power to alter or dissolve a union under 4 & 5 Will. 4, c. 76, s. 32; 7 & 8 Vict. c. 101, s. 66; 31 & 32 Vict. c. 122, s. 4; 39 & 40 Vict. c. 61, s. 11.

The text enables the board to divide a union for the purpose of out-door relief while continuing it as one union for other purposes, such as the workhouse.

This forms an exception to the general scheme of the Act as stated in section 53, that no area of local government shall be situate in more than one county.

Supplemental provisions as to alteration of areas.

59.—(1) A scheme or order under this Act may make such administrative and judicial arrangements incidental to or consequential on any alteration of boundaries, authorities, or other matters made by the scheme or order as may seem expedient.

(2) A place which is part of an administrative county for the purposes of this Act shall, subject as in this Act mentioned, form part of that county for all purposes, whether sheriff, lieutenant, custos rotulorum, justices, militia, coroner, or other; Provided that—

(*a*) Notwithstanding this enactment, each of the entire counties of York, Lincoln, Sussex, Suffolk, Northampton, and Cambridge shall continue to be one county for the said purposes so far as it is one county at the passing o this Act; and

(*b*) This enactment shal not affect the existing powers or privileges of any city or borough as respects the

sheriff, lieutenant, militia, justices, or coroner; but, if any county borough is, at the passing of this Act, a part of any county for any of the above purposes, nothing in this Act shall prevent the same from continuing to be part of that county for that purpose; and

(*c*) This enactment shall not affect parliamentary elections nor the right to vote at the election of a member to serve in Parliament, nor land tax, tithes, or tithe rentcharge, nor the area within which any bishop, parson, or other ecclesiastical person has any cure of souls or jurisdiction.

(3) For the purposes of parliamentary elections, and of the registration of voters for such elections, the sheriff, clerk of the peace, and council of the county in which any place is comprised at the passing of this Act for the purpose of parliamentary elections shall, save as otherwise provided by the scheme or order, or by the County Electors Act, 1888, or this Act, continue to have the same powers, duties, and liabilities as they would have had if no alteration of boundary had taken place.

51 & 52 Vict. c. 10.

(4) Any scheme or order made in pursuance of this Act may, so far as may seem necessary or proper for the purposes of the scheme or order, provide for all or any of the following matters, that is to say,—

(*a*) May provide for the abolition, restriction, or establishment, or extension of the jurisdiction of any local authority in or over any part of the area affected by the scheme or order, and for the adjustment or alteration of the boundaries of such area, and for the constitution of the local authorities therein, and may deal with the powers and duties of any council, local authorities, quarter sessions, justices of the peace, coroners, sheriff, lieutenant, custos rotulorum, clerk of the peace, and other officer therein, and with the costs of any such authorities, sessions, persons, or officers as aforesaid, and may determine the status of any such area as a component part of any larger area, and provide for the election of representatives in such area, and may extend to any altered area the provisions of any local Act which were previously in force in a portion of the area; and

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(*b*) May make temporary provision for meeting the debts and liabilities of the various authorities affected by the scheme or order, for the management of their property, and for regulating the duties, position, and remuneration of officers affected by the scheme or order, and applying to them the provisions of this Act as to existing officers; and

(*c*) May provide for the transfer of any writs, process, records, and documents relating to or to be executed in any part of the area affected by the scheme or order, and for determining questions arising from such transfer: and

(*d*) May provide for all matters which appear necessary or proper for bringing into operation and giving full effect to the scheme or order; and

(*e*) May adjust any property, debts, and liabilities affected by the scheme or order.

(5) Where an alteration of boundaries of a county is made by this Act an order for any of the above-mentioned matters may, if it appears to the Local Government Board desirable, be made by that Board, but such order, if petitioned against by any council, sessions, or local authority affected thereby, within three months after notice of such order is given in accordance with this Act, shall be provisional only, unless the petition is withdrawn or the order is confirmed by Parliament.

(6) A scheme or order may be made for amending any scheme or order previously made in pursuance of this Act, and may be made by the same authority and after the same procedure as the original scheme or order. Where a provision of this Act respecting a scheme or order requires the scheme or order to be laid before Parliament, or to be confirmed by Parliament, either in every case or if it is petitioned against, such scheme or order may amend any local and personal Act.

General provision as to alteration of boundaries.

60. In every alteration of boundaries effected under the authority of this Act, care shall be taken that, so far as practicable, the boundaries of an area of local government shall not intersect the boundaries of any other area of local government.

Appointment of Commissioners.

61.—(1) For the purposes of this Act the Right Honourable Edward Henry, Earl of Derby, the Right Honourable George

John Shaw Lefevre, John Lloyd Wharton, Esquire, Francis Mowatt, Esquire, C.B., and Joseph J. Henley, Esquire, shall be appointed Commissioners. Section 61.

(2) If a vacancy occurs in the office of any of the Commissioners by reason of death, resignation, incapacity, or otherwise, it shall be lawful for Her Majesty the Queen, under Her Royal Sign Manual, to appoint some other person to fill the vacancy, and so from time to time as often as occasion requires.

(3) The Commissioners may from time to time, with the assent of the Treasury as to number, appoint or employ such number of officers and persons as they may think necessary for the purpose of the execution of their duties under this Act, and may remove any officer or person so appointed or employed.

(4) There shall be paid to any officer or person appointed or employed under this section, such salaries or other remuneration as the Treasury may assign, and that remuneration and all expenses of the Commissioners, incurred with the sanction of the Treasury in the execution of this Act, shall be paid out of moneys provided by Parliament.

(5) On holding any inquiry for the purposes of this Act, any Commissioner or officer of the Commissioners shall have the same powers as an inspector of the Local Government Board has on holding a local inquiry under the Public Health Act, 1875. 38 & 39 Vict. c. 55.

An inspector of the Local Government Board has, by virtue of section 296 of the Public Health Act, 1875, for the purpose of any inquiry, in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of these Acts. The 4 & 5 Will. 4, c. 76, s. 12, and 10 & 11 Vict. c. 109, ss. 20, 21, contains the provisions as to the powers of poor law inspectors.

The provisions of the Public Health Act, 1875, as to local inquiries are set out in the note to section 87, *post*.

(6) There shall be paid to the Commissioners by the councils of the counties and county boroughs whose financial relations are adjusted by the Commissioners in pursuance of this Act, such amounts as the Treasury may fix as necessary for the payment of the costs of such adjustment, including a proper share of the salaries and remuneration of the officers and persons appointed or employed by such Commissioners, and such amounts shall be paid into the Exchequer, and the amount so paid shall be included as part of the adjustment.

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(7) The authority of the Commissioners shall extend to the settlement and the determination by them, on such terms and in such manner as they, in their absolute discretion, think most just and fit, of the matters referred to them, and also of all such matters and questions as are, in their judgment, incident thereto or consequent thereon, to the end that their award or awards may affect a final settlement, and until a final settlement is made the authority of the Commissioners shall extend to determine the proportions in which payments are to be made to the councils of counties and county boroughs out of the Local Taxation Account, and all payments so made shall be taken into account in the making of the adjustment.

(8) Every award, order, and other instrument made by or proceeding from the Commissioners, shall be binding and conclusive to and for all intents and purposes, and shall have the like effect as if it had been made by a judge of the High Court of Justice in England, and shall be acted on, obeyed, executed, and enforced by all sheriffs and other officers and persons accordingly. No such award, order, or other instrument shall be removable by any writ or process into any of Her Majesty's Courts, and the Commissioners proceedings or acts shall not be liable to be interfered with or questioned by or in any court, or elsewhere, by way of mandamus, prohibition, injunction, or otherwise.

(9) The costs of and attending the inquiry and award shall be borne and paid by the parties out of the fund or rate applicable to their general expenses, in such proportions as the Commissioners may direct, and the Commissioners may order the taxation of any costs in such manner as they may see fit.

(10) The powers of the Commissioners shall, unless continued by Parliament, cease on the last day of December, one thousand eight hundred and ninety.

Adjustment of property and liabilities.

62.—(1) Any councils and other authorities affected by this Act or by any scheme, order, or other thing made or done in pursuance of this Act, may from time make agreements for the purpose of adjusting any property, income, debts, liabilities, and expenses, so far as affected by this Act or such scheme, order, or thing, of the parties to the agreement, and the agreement and any other agreement authorised by this Act to be made for the purpose of the adjustment of any property, debts, liabilities, or financial relations may provide for the transfer or retention of

any property, debts, and liabilities, with or without any conditions, and for the joint use of any property, and for the transfer of any duties, and for payment by either party to the agreement in respect of property, debts, duties, and liabilities so transferred or retained, or of such joint user, and in respect of the salary, remuneration, or compensation payable to any officer or person, and that either by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Commissioner under this Act or the Local Government Board.

(2) In default of an agreement as to any matter requiring adjustment for the purpose of this Act, or any matter which, in case of difference, is to be referred to arbitration, then, if no other mode of making such adjustment or determining such difference is provided by this Act, such adjustment or difference may be made or determined by an arbitrator appointed by the parties, or in case of difference as to the appointment, appointed by the Local Government Board.

(3) An arbitrator appointed under this Act shall be deemed to be an arbitrator within the meaning of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, and the provisions of those Acts with respect to an arbitration shall apply accordingly; and, further, the arbitrator may state a special case, and notwithstanding anything in the said Acts, shall determine the amount of the costs, and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily. 8 & 9 Vict. c. 18.

(4) Any award or order made by the Commissioners or any arbitrator under this Act may provide for any matter for which an agreement might have provided.

(5) Any sum required to be paid for the purpose of adjustment, or of any award or order made by the Commissioners, or an arbitrator under this Act, may be paid out of the county or borough fund or out of such other special fund as the council, with the approval of the Commissioners under this Act or of the Local Government Board, may direct.

(6) The payment of any capital sum required to be paid for the purposes of the adjustment or of an agreement under this Act, or of any award or order made upon any arbitration under

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this Act, shall be a purpose for which a council may borrow under this Act, or in the case of a borough council, under the Municipal Corporations Act, 1882, or any local Act, and such sum may be borrowed on the security of all or any of the funds, rates, and revenues of the council, and either by the creation of stock or in any other manner in which they are for the time being authorised to borrow, and such sum may be borrowed without the consent of the Treasury or any other authority, so that it be repaid within such period as the Local Government Board may sanction, by such method as is mentioned in Part Four of this Act for paying off a loan, or, if the sum is raised by stock under a local Act, by such method as is directed by that Act.

(7) Any capital sum paid to any council for the purpose of any adjustment, or in pursuance of any order or award of an arbitrator under this Act shall be treated as capital, and applied, with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.

Arbitration by Local Government Board. 31 & 32 Vict. c. 119.

63. Where the Local Government Board are required in pursuance of this Act to decide any difference or other matter referred to arbitration in pursuance of this Act, the provisions of the Regulation of Railways Act, 1868, respecting arbitrations by the Board of Trade, and the enactments amending those provisions, shall apply as if they were herein re-enacted, and in terms made applicable to the Local Government Board, and the decision of differences and matters under this Act.

The provisions of the Regulation of Railways Act, 1868, 31 & 32 Vict. c. 119, here referred to, are contained in sections 30—32 of that Act. Under these, as applied by the above section, the Local Government Board may appoint an arbitrator, whose award or decision shall be that of the Board. The Board may fix the remuneration of the arbitrator. The costs of the arbitration are to be regulated by 22 & 23 Vict. c. 59, which places them in the discretion of the arbitrator. If the award does not otherwise determine, the costs of the arbitration and award are to be borne by the parties in equal shares.

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Funds of county council.

68.—(1) All receipts of the county council, whether for general or special county purposes, shall be carried to the county fund, and all payments for general or special county purposes shall be made in the first instance out of that fund.

(2) In this Act the expression "general county purposes" means all purposes declared by this or any other Act to be

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general county purposes, and all purposes for contributions to which the county council are for the time being authorised by law to assess the whole area of their administrative county, and the expression "general county account" means the account of the county fund to which the contributions so raised are carried, and any costs incurred for a general county purpose shall be general expenses, and all costs incurred by the county council in the execution of their duties which are not by law made special expenses shall be general expenses.

(3) In this Act the expression "special county purposes" means any purposes from contribution to which any portion of the county is for the time being exempt, and also includes any purposes where the expenditure involved is by law restricted to a hundred, division, or other limited part of the county, and the expression "special county account" means any account of the county fund to which contributions for special county purposes are carried, and any costs incurred for a special county purpose shall be special expenses.

(4) If the moneys standing to the general county account of the county fund are insufficient to meet the expenditure for general county purposes, county contributions may be levied to meet the deficiency on the whole administrative county, and shall be assessed on all the parishes in the county.

(5) If the moneys standing to any special county account of the county fund are insufficient to meet the expenditure for the special county purposes chargeable to that account, county contributions may be levied to meet the deficiency on any parishes in the county liable to be assessed to county contributions for those purposes.

(6) Any precept for county contributions may include as separate items a contribution for general county purposes, and a contribution for any special county purpose or purposes, and subject as in this or any other Act mentioned, county contributions, whether for general or special county purposes, which are liable to be assessed on the parishes, shall be assessed on such parishes in proportion to the annual value thereof, as determined by the standard or basis for the county rate, and all enactments applying to such standard or basis or to county rate shall (save as altered by this Act) apply, so far as may be consistently with the tenor thereof, to county contributions, and those enactments shall extend to all parishes within any borough which are liable under this Act to be assessed to county contributions.

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(7) The county council shall keep such accounts as will prevent the whole administrative county from being charged with expenditure properly payable by a portion only of the county, and will prevent any sums raised in a portion only of the county being applied in reduction of expenditure properly payable by the whole or a larger part of the county, and will further secure any such exemption as above in this section mentioned, and will prevent any sums by law specifically applicable to any particular purpose from being applied to any other purpose.

(8) In determining the amount of expenditure for any particular county purpose, general or special, a proper proportion of the cost of the officers and buildings and establishment of the county council may be added to the expenditure directly expended for that purpose.

(9) County contributions may be made retrospective in order to raise money for the payment of costs incurred, or having become payable at any time within six months before the demand of the contributions.

This provision is similar to that contained in the Public Health Act, 1875, s. 210, as to general district rates. It is intended to prevent the raising of legal objections to county rates on the ground that they are retrospective. It will be remembered that retrospective rates are illegal. See *Reg.* v. *Read*, 18 L. J. M. C. 164; *Reg.* v. *Bedlington (Overseers of)*, 48 J. P. 486.

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Local Financial Year and Annual Budget.

Fixing of local financial year and consequent adjustments.

73.—(1) After the appointed day, not being more than three years after the passing of this Act, the local financial year shall be the twelve months ending the thirty-first day of March, and the accounts of the receipts and expenditure of every county council shall be made up for that year, but until the appointed day the local financial year shall be the twelve months ending the twenty-fifth day of March, and the said accounts shall be made up for that year.

(2) All enactments relating to accounts of local authorities, or the audit thereof, or to returns touching their receipts and expenditure, or to meetings, or other matters, shall be modified so far as is necessary for adapting them to the provisions of this section, and the Local Government Board shall from time to time give such orders and make such arrangements as appear to

the Board to be necessary or proper for effecting such adaptation, and giving effect to the provisions of this section. Section 73.

The effect of this provision is to make the financial year end on the 31st of March, not only with respect to county councils, but with respect to the accounts of local authorities generally.

* * * * *

76.—(1) The provisions of section four of the County Electors Act, 1888, with respect to the framing of the lists and register of voters in parts shall extend to parishes situate within a parliamentary borough. Amendment of 51 & 52 Vict. c. 10.

The provisions of the County Electors Act, 1888, have already been set out, *ante*, p. 507, and the effect of the amendments contained in this section has been stated in the notes to that Act.

(2) In the provisions of section four of the said Act with respect to making out the lists of voters according to the order in which the qualifying premises appear in the rate book, the county authority shall mean the county council.

(3) The names of the parliamentary electors and county electors in the lists in each polling district may be numbered consecutively, and such portion of those lists as consists of the names of parliamentary electors may be taken to form the register for the purpose of parliamentary elections, and such portion of those lists as contains the names of county electors may be taken to form the register of county electors.

(4) For the purpose of the provisions of the Acts relating to the appointment of revising barristers, and of section nine of the County Electors Act, 1888, the county of Surrey and such portion of the county of London as is situate south of the Thames shall be deemed to be separate counties forming part of the south-eastern circuit; and such portion of the administrative county of London as is situate north of the Thames shall be deemed to form part of the county of Middlesex; and the county of Middlesex, inclusive of that portion, shall be deemed to be a separate county on a circuit; but any sum payable by the London county council in respect of either of the said portions of the county, shall be paid as for a general county purpose.

(5) The provisions of section eleven of the County Electors Act, 1888, with respect to the payment of the sums therein mentioned, shall apply to the payment of the said sums in the year one thousand eight hundred and eighty-eight in like manner as if a county authority had not been established under this Act.

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51 & 52 Vict. c. 10.

(6) It is hereby delared that nothing in section twelve of the County Electors Act, 1888, applies to any person occupying property within a borough.

(7) It shall be lawful for Her Majesty the Queen, by Order in Council, from time to time to alter the instructions, precepts, notices, and forms under the Registration of Electors Acts, in such manner as appears to Her Majesty necessary for carrying into effect this Act and the County Electors Act, 1888, and any other Act for the time being in force amending or affecting the Acts mentioned in this sub-section, and the instructions, precepts, notices, and forms specified in any such Order in Council shall be observed and be valid in law, and clerks of the peace, and town clerks, and other officers shall act accordingly.

(8) The provisions of section six of the said County Electors Act, 1888, requiring the statement of the barrister for the purpose of an appeal to be made not less than four days before the first day of the Michaelmas sittings shall not apply in the year one thousand eight hundred and eighty-eight.

Residential qualification of county electors in administrative county of London.

77. A person who is entitled to be registered as a county elector in respect of any qualification in the administrative county of London, in all respects except that of residence, and is resident beyond seven miles but within fifteen miles of the county, shall be entitled to be registered as a county elector.

This provision is in effect that the persons whose names would in the ordinary way be placed in the separate non-resident list shall in London be qualified not only to be elected county councillors, but to be registered as county electors. There will not therefore be any need for a separate non-resident list in the county of London.

As to the "administrative county of London," see section 40.

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Adaptation of Acts.

Adaptation of Lunatic Asylum Acts.

86. For the purpose of adapting the Acts relating to pauper lunatic asylums to the provisions of this Act, the following provisions shall have effect:—

* * * * *

(5) Any asylum provided in whole or in part at the cost of a county shall for the purposes of this Act be included in the expression "county lunatic asylum."

All the rest of this section was repealed by the Lunacy Act, 1890, 53 Vict. c. 5.

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Section 87.

Application of provisions of 38 & 39 Vict. c. 55, as to local inquiries and provisional orders.

87.—(1) Where the Local Government Board are authorised by this Act to make any inquiry, to determine any difference, to make or confirm any order, to frame any scheme, or to give any consent, sanction, or approval to any matter, or otherwise to act under this Act, they may cause to be made a local inquiry, and in that case, and also in a case where they are required by this Act to cause to be made a local inquiry, sections two hundred and ninety-three to two hundred and ninety-six, both inclusive, of the Public Health Act, 1875, shall apply as if they were herein re-enacted, and in terms made applicable to this Act.

Sections 293—296 of the Public Health Act, 1875, are as follows:—

"293. The Local Government Board may from time to time cause to be made such inquiries as are directed by this Act, and such inquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction, approval, or consent is required by this Act.

"294. The Local Government Board may make orders as to the cost of inquiries or proceedings instituted by, or of appeals to the said Board under this Act, and as to the parties by whom or the rates out of which such costs shall be borne; and every such order may be made a rule of one of the Superior Courts of Law on the application of any persons named therein.

"295. All orders made by the Local Government Board in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such manner as that Board may direct.

"296. Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts."

(2) Sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875 (which relate to the making of provisional orders by the Local Government Board), shall apply for the purposes of this Act as if they were herein re-enacted, and in terms made applicable thereto.

Sections 297 and 298 of the Public Health Act, 1875, are as follows:—

"297. With respect to the provisional orders authorised to be made by the Local Government Board under this Act, the following enactments shall be made:—

"(1) The Local Government Board shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates:

"(2) Before making any such provisional order, the Local Government Board shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject-matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections:

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NOTE.

"(3) The Local Government Board may submit to Parliament for confirmation any provisional order made by it in pursuance of this Act, but any such order shall be of no force whatever unless and until it is confirmed by Parliament:

"(4) If while the Bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the Bill, so far as it relates to such order, may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills:

"(5) An Act confirming any provisional order made in pursuance of any of the Sanitary Acts or of this Act, and any Order in Council made in pursuance of any of the Sanitary Acts, may be repealed, altered, or amended by any provisional order made by the Local Government Board and confirmed by Parliament:

"(6) The Local Government Board may revoke, either wholly or partially, any provisional order made by them before the same is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the order is pending in either House of Parliament:

"(7) The making of a provisional order shall be *primâ facie* evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such provisional order have been complied with:

"(8) Every Act confirming any such provisional order shall be deemed to be a public general Act.

"298. The reasonable costs of any local authority in respect of provisional orders made in pursuance of this Act, and of the inquiry preliminary thereto, as sanctioned by the Local Government Board, whether in promoting or opposing the same, shall be deemed to be expenses properly incurred for purposes of this Act by the local authority interested in or affected by such provisional orders, and such costs shall be paid accordingly; and if thought expedient by the Local Government Board, the local authority may contract a loan for the purpose of defraying such costs."

(3) Provided that, where a provisional order transfers to county councils generally any powers, duties, or liabilities of Her Majesty's Privy Council, a Secretary of State, the Local Government Board, or other Government department, it shall not be necessary to hold a local inquiry nor to advertise in any local newspaper.

See section 10, *ante*, p. 541.

(4) Where any matter is authorised or required by this Act to be prescribed, and no other provision is made declaring how the same is to be prescribed, the same shall be prescribed from time to time by the Local Government Board.

(5) Where the Board cause any local inquiry to be held under this Act, the costs incurred in relation to such inquiry, including the salary of any inspector or officer of the Board engaged in such inquiry, not exceeding three guineas a day, shall be paid by the councils and other authorities concerned in such inquiry, or by such of them and in such proportions as the Board may direct, and the Board may certify the amount of the costs

incurred, and any sum so certified and directed by the Board to be paid by any council or authority shall be a debt to the Crown from such council or authority. Section 87.

88. In the administrative county of London the following provisions shall have effect: Adaptation of Act to Metropolis.

(*a*) The county council may from time to time appoint any fit person to be deputy chairman, and to hold office during the term of office of the chairman, and may pay to such deputy chairman such remuneration as the county council may from time to time think fit;

(*b*) Subject to any rules from time to time made by the county council, anything authorised or required to be done by, to, or before the chairman, may be done by, to, or before such deputy chairman;

(*c*) Section one hundred and ninety-one of the Public Health Act, 1875, shall apply to the metropolis in like manner as if the Commissioners of Sewers in the City of London, and every vestry of a parish in Schedule A., and district board of a district in Schedule B. to the Metropolis Management Act, 1855, or under any Act amending the same, were a local authority within the meaning of that section, and as if any medical officer hereafter appointed by such commissioners, vestry, or district board were appointed under the said Act, and the provisions of this Act with respect to the qualification of a medical officer or to the payment by a county council of a portion of the salary of a medical officer shall apply accordingly. 38 & 39 Vict. c. 55. 18 & 19 Vict. c. 120.

Section 191 of the Public Health Act, 1875, relates to the appointment, &c., of medical officers of health. It is set out in the notes to section 24 (3), *ante*, p. 555. The provisions of this Act with respect to the qualifications, &c., of a medical officer are contained in sections 17—19, *ante*, p. 543. See the order of the Local Government Board under this section, 30th March, 1889.

89.—(1) The Central Criminal Court Act, 1834, shall be construed as if the county of London were throughout mentioned therein as well as the county of Middlesex. Adjustment of law as regards courts, juries, sittings, and legal proceedings in Middlesex and London. 4 & 5 Will. 4, c. 36. 6 Geo. 4, c. 50.

(2) The County Juries Act, 1825, and the Acts amending the same, shall apply to the county of London in like manner as they apply to the county of Middlesex, and persons shall be qualified to serve as jurors, and lists of jurors shall be made out in like manner, so nearly as circumstances admit, as in that

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county; and the present exemption of inhabitants of the liberty and city of Westminster from serving on juries at quarter sessions for the county of Middlesex shall cease; but nothing in this section shall alter the qualification of persons to serve as jurors within the city of London.

(3) Subject to rules of court made by the authority having power to make rules for the Supreme Court of Judicature, the county of London and the county of Middlesex shall be deemed to be one county for the purpose of all legal proceedings, civil or criminal, in the Supreme Court or Central Criminal Court, or any other court except the court of quarter sessions, and also for the purpose of the sittings of the Supreme Court, Central Criminal Court, or such other court as aforesaid, or of any judge of any of such courts, and also for the purpose of any jury, and of any court of assize, oyer and terminer, and gaol delivery; and all enactments, rules, orders, and documents referring to Middlesex shall be construed so as to give effect to this section; and rules of court may be from time to time made for the purpose of carrying this section into effect, and for regulating the issue of precepts to the sheriffs of the counties of London and Middlesex for the return of jurors, and the jurors so returned shall have the same powers, duties, and liabilities as if the two counties were one county.

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Savings.

Saving for votes at any Parliamentary elections.

92.—(1) Nothing in this Act, nor anything done in pursuance of this Act, shall alter the limits of any parliamentary borough or parliamentary county, or the right of any person to be registered as a voter at any parliamentary election.

(2) Where by virtue of the provisions of this Act with respect to the county of London, or to urban sanitary districts situate partly within and partly without the boundary of a county, a place situate in a parliamentary county becomes part of the county of a council other than the council having authority over the largest part of the parliamentary county, that is to say, the part which contains the largest number of occupation voters, then, for the purpose of making out and revising the lists of voters, of conducting any parliamentary election, of polling districts, and assigning polling places, and for all purposes of and incidental to such matters, including the payment of expenses,

such place shall be deemed to be part of the same county as the said largest part of the said parliamentary county, and the sheriff, council, clerk of the peace, authorities, and officers of that county shall have authority accordingly in the said place, and the provisions of the Registration Act, 1885, with respect to parliamentary counties extending into more county quarter sessional areas than one, shall apply with the necessary modifications. 48 & 49 Vict. c. 15.

The provisions of this Act with respect to the county of London are contained in section 40, *ante*, p. 573; the provisions as to urban districts situate partly within and partly without a county are contained in section 50, *ante*, p. 583.

(3) Provided that the clerk of the peace who receives from the revising barrister the lists of voters in any such place shall supply to any other clerk of the peace or other officer such number of revised lists as he may require for the purpose of making up a register of county electors.

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Saving for metropolitan common poor fund.

94. The grant made by the county council of London in respect of in-door paupers shall be in addition to any payment made out of the metropolitan common poor fund, and nothing in this Act shall affect the enactments relating to the fund.

The grant made by the London County Council in respect of in-door paupers is made under section 43, *ante*, p. 579.

The metropolitan poor fund was established by the 30 Vict. c. 6. It is a fund raised by contributions from the several unions, parishes, and places in the metropolis. These contributions are paid to a receiver appointed by the Local Government Board. The fund is applied in payment of the expenses of lunatic asylums, fever or small pox hospitals, medicine and medical and surgical appliances supplied by guardians by way of relief, salaries of officers of guardians, district school managers and asylum managers, and officers of dispensaries, registration of births and deaths, vaccination, maintenance of pauper children in schools, &c.; also in payment of the expenses of the maintenance of paupers above the age of sixteen years in any workhouse in the metropolis, the amount to be repaid being at the rate of fivepence per day for each pauper. The Acts which contain provisions relating to the fund are 30 Vict. c. 6; 31 & 32 Vict. c. 122; 32 & 33 Vict. c. 63; 33 & 34 Vict. c. 18; 34 & 35 Vict. c. 15; 39 & 40 Vict. c. 61; 42 & 43 Vict. c. 54, *ante*, p. 51.

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Definitions.

Definition of "written."

99. All notices and documents required by this Act to be in writing may be in writing or print, or partly in writing and partly in print, and for the purposes of this section "print" includes any mechanical mode of reproduction.

Section 100. Interpretation of certain terms in the Act.

100. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them; that is to say:

The expression "county" does not include a county of a city or county of a town:

The expression "entire county" means, in the case of a county divided into administrative counties, the whole of the county formed by those administrative counties:

The expression "division of a county" in the provisions of this Act, respecting the property of quarter sessions, includes any hundred, lathe, wapentake, or other like division:

The expression "administrative county" means the area for which a county council is elected in pursuance of this Act, but does not (except where expressly mentioned) include a county borough:

The expression "metropolis" means the city of London and the parishes and places mentioned in Schedules A., B., and C. to the Metropolis Management Act, 1855, as amended by subsequent Acts:

18 & 19 Vict. c. 120.

The expression "borough" means any place for the time being subject to the Municipal Corporations Act, 1882, and any reference to the mayor, aldermen, and burgesses of a borough shall include a reference to the mayor, aldermen, and citizens of a city:

45 & 46 Vict. c. 50.

The expression "quarter sessions borough" means a borough having a separate court of quarter sessions, and includes a county of a city and a county of a town, subject to the Municipal Corporations Act, 1882:

The expression "quarter sessions," as respects any county, riding, division, or liberty, means the justices in quarter or general sessions assembled, and includes justices assembled in gaol sessions, annual general sessions, and adjourned sessions, and as respects any borough, means any court of quarter or general sessions held for the borough or for any county of a city or town consisting of the borough, whether held by the recorder or by justices, and as respects the city of London, means the court of the mayor and aldermen in the inner chamber:

The expression "parish" means a place for which a separate overseer is or can be appointed, and where part of a parish is situate within, and part of it without, any county,

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borough, urban sanitary district, or other area, means each such part:

The expressions "parliamentary county" and "parliamentary election" and "parliamentary voters" have the same meaning as in the Registration Act, 1885, and the Acts therein referred to: 48 & 49 Vict. c. 15.

The expression "Secretary of State" means one of Her Majesty's principal Secretaries of State:

The expression "Treasury" means the Commissioners of Her Majesty's Treasury:

The expression "Bank of England" means the Governor and Company of the Bank of England:

The expression "existing" means existing at the time specified in the enactment in which the expression is used, and if no such time is expressed, then at the day appointed to be for the purpose of such enactment the appointed day:

The expression "guardians" means guardians elected under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or other bodies of persons performing under any local Act the like functions to guardians under the Poor Law Amendment Act, 1834: 4 & 5 Will. 4, c. 76.

The expression "poor law union" means any parish or union of parishes for which there is a separate board of guardians:

The expressions "district council" and "county district" mean respectively any district council established for purposes of local government under an Act of any future session of Parliament, and the district under the management of such council, and until such council is established, mean respectively—

(*a*) As regards the provisions of this Act relating to highways and main roads, a highway authority, and highway area; and

(*b*) Save as aforesaid, an urban or rural sanitary authority within the meaning of the Public Health Act, 1875, and the district of such authority: 38 & 39 Vict. c. 55.

The expression "highway area" means, as the case may require, an urban sanitary district, a highway district, or a highway parish not included within any highway or urban sanitary district:

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The expression "highway authority" means, as respects an urban sanitary district, the urban sanitary authority, and as respects a highway district, the highway board, or authority having the powers of a highway board, and as respects a highway parish, the surveyor or surveyors of highways or other officers performing similar duties:

The expression "urban authority" means, until the establishment of district councils as aforesaid, an urban sanitary authority; and after their establishment, the district council of an urban county district:

The expression "rural authority" means, until the establishment of district councils as aforesaid, a rural sanitary authority; and after their establishment, the district council of a rural county district:

The expression "person" includes any body of persons, whether corporate or unincorporate:

Any expression referring to the value of any parish, borough, or area as ascertained by the standard or basis for the county rate or contributions shall, where any rateable value has been fixed by agreement between the councils of any county and county boroughs, be that value, and subject thereto shall, in the case of any parish, borough, or area for which there is no such standard or basis, refer to the total rateable value as determined by the last valuation lists, or if there is no valuation list, by the last poor rates for such parish or the parishes comprised in such borough or area; and where an area is authorised or directed by this Act to be assessed to any contributions or rates, the same shall, unless otherwise provided by law, be assessed according to the standard or basis for the county rate:

The expression "property" includes all property, real and personal, and all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books, and documents; and when used in relation to any quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority, includes any property which on the appointed day belongs to, or is vested in, or held in trust for, or would but for this Act have, on or after that day, belonged to, or been vested in, or held in trust for, such quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority; and the expression "property" shall further include, in the case of

the county of Chester, any surplus revenue of the River Weaver Trust, which is or would but for this Act be payable to the quarter sessions:

The expression "powers" includes rights, jurisdiction, capacities, privileges, and immunities:

The expression "duties" includes responsibilities and obligations:

The expression "liabilities" includes liability to any proceeding for enforcing any duty or for punishing the breach of any duty, and includes all debts and liabilities to which any authority are or would but for this Act be liable or subject to, whether accrued due at the date of the transfer or subsequently accruing, and includes any obligation to carry or apply any money to any sinking fund or to any particular purpose:

The expression "powers, duties, and liabilities" includes all powers, duties, and liabilities conferred or imposed by or arising under any local and personal Act:

The expression "expenses" includes cost and charges:

The expression "costs" includes charges and expenses:

The costs of assizes and of quarter and petty sessions include such of the following costs as are applicable, that is to say, the costs of maintaining and providing the courts and offices and the judges' lodgings, the salaries and remuneration of a chairman of quarter sessions, clerks of assize, clerks of the peace, clerks of the justices, and other officers, the costs of the jury lists, the costs of rewards ordered to be paid by the court, the costs of prosecutions including the costs of the defendant's witnesses, and all other costs incidental to the assizes, quarter sessions, petty sessions, or the judges, but nothing shall require a quarter sessions borough to contribute towards the costs of prosecutions at assizes except in the case of prisoners committed for trial from the borough:

The expression "assizes" includes the Central Criminal Court:

The expression "pension" includes any superannuation allowance, gratuity, or other payment made on the retirement of any officer:

The expression "office" includes any place, situation, or employment, and the expression "officer" shall be construed accordingly:

Section 100.

The expression "the divisions of Lincolnshire" means the parts of Holland, the parts of Kesteven, and the parts of Lindsey:

19 & 20 Vict. c. 69.

The expression "County and Borough Police Act, 1856," means the Act of the session of the nineteenth and twentieth years of the reign of Her present Majesty, chapter sixty-nine, intituled "An Act to render more effectual the police in counties and boroughs in England and Wales," and the expression "County and Borough Police Acts" means the County and Borough Police Act, 1856, and the Acts therein recited:

The expression "main road," when used in relation to the district of any highway or road authority, means so much of the main road as is situate within the district of such authority.

In relation to the election of county councillors, the day of nomination shall be deemed to be the day on which the names of the persons nominated are fixed on the Town Hall or other conspicuous place.

Extent of Act.

101. This Act shall not extend to Scotland or Ireland.

Short title.

102. This Act may be cited as the Local Government Act, 1888.

* * * * *

Appointed Day.

Appointed day.

109.—(1) Subject as in this Act mentioned, the appointed day for the purposes of this Act shall in each county be the first day of April next after the passing thereof, or such other day, earlier or later, as the Local Government Board (but after the election of county councillors for such county on the application of the provisional council or county council) may appoint, either generally or with reference to any particular provision of this Act, and different days may be appointed for different purposes and different provisions of this Act, whether contained in the same section or in different sections or for different counties.

(2) Any enactment of this Act authorising anything to be done by the Commissioners of Inland Revenue or the Local Government Board, or relating to the registration of electors, or to the elections, or to any matter required to be done for the

purpose of bringing this Act into operation on the appointed day, shall come into effect on the passing of this Act; but, save as aforesaid, and save so far as there may be anything in the context inconsistent therewith, any enactment of this Act shall come into operation on the appointed day. Section 109.

* * * * *

Savings.

Saving for existing securities and discharge of debts.

122.—(1) Nothing in this Act shall prejudicially affect any securities granted before the passing of this Act on the credit of any rate or of any property by this Act transferred to a county council; and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to the county council under this Act shall be discharged, paid, and satisfied by such council.

(2) Where for the purpose of satisfying any such security or any debt or liability, it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for the provisions of this Act, such rate may continue to be levied and power to be exercised either by the authority who otherwise would have levied or exercised the same or by the county council, as the case may require.

(3) It shall be the duty of every authority whose powers, duties, and liabilities are transferred to any council by this Act to liquidate, so far as practicable before the appointed day, all current debts and liabilities incurred by such authority.

Saving for existing bye-laws.

123. All such bye-laws, orders, and regulations of the Privy Council, Secretary of State, Board of Trade, Local Government Board, or Government department, or of any quarter sessions, council of a borough, the Metropolitan Board of Works, or other authority, whose powers and duties are transferred by or in pursuance of this Act to any county council, as are in force at the time of the tranfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if they had been made by such council, subject, nevertheless, to revocation or alteration by such council in the manner in which bye-laws can be made by such council, and also to any exceptions or modifications which may be made at the time of the transfer.

Section 124. Saving for pending actions, contracts, &c.

124.—(1) If at the date of the transfer in this section mentioned any action or proceeding, or any cause of action or proceeding, is pending or existing by or against any authority in relation to any powers, duties, liabilities, or property by this Act transferred to the county council, the same shall not be in anywise prejudicially affected by reason of the passing of this Act, but may be continued, prosecuted, and enforced by or against such council as successors of the said authority in like manner as if this Act had not been passed.

(2) All contracts, deeds, bonds, agreements, and other instruments entered into or made and subsisting at the time of the transfer in this section mentioned, and affecting any such powers, duties, liabilities, or property of any authority as are by this Act transferred to a county council, shall be of as full force and effect against or in favour of the council, and may be enforced as fully and effectually, as if, instead of the authority, the said council had been a party thereto.

(3) All contracts or agreements which prior to the appointed day have been made by the clerk of the peace or any justice or justices or otherwise on behalf of a county, or any division or part of a county, shall have effect as if the council of that county had been named therein instead of the clerk of the peace or such justice or justices, and may be enforced by or against the county council accordingly.

(4) This section shall apply in the case of a committee of any authority in like manner as if the committee were such authority, and the committee of a county council were that council, and as if contracts and agreements by any such committee appointed by quarter sessions were contracts and agreements on behalf of a county.

Saving for charters, local Acts, &c.

125. Save so far as may be necessary to give effect to this Act or any scheme or order or other thing made or done thereunder nothing in this Act shall prejudicially alter or affect the powers, rights, privileges, or immunities of any municipal corporation, or the operation of any municipal charter, local Act of Parliament, or order confirmed by Parliament, which immediately before the passing of this Act was in force.

Repeals.

Repeal of Acts.

126. All enactments inconsistent with this Act are hereby repealed; Provided that—

(1) Any enactment or document referring to any Act or

enactment hereby repealed shall be construed to refer to this Act, or to the corresponding enactment in this Act: Section 126.

(2) This repeal shall not affect—

(*a*) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any enactment hereby repealed; or

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under or in accordance with any enactment hereby repealed; or

(*c*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or

(*d*) Any power, investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such power, investigation, legal proceeding, and remedy may be exercised and carried on as if this Act had not passed.

SCHEDULES.

FIRST SCHEDULE. Section 20.

Local Taxation Licences.

Licences for the sale of intoxicating liquor for consumption on the premises;

Retailers of spirits (publicans).
Retailers of spirits, occasional licences.
Retailers of beer.
Retailers of beer, occasional licences.
Retailers of beer and wine.
Retailers of cider.
Retailers of wine.
Retailers of wine, occasional licences.
Retailers of sweets.

Licences for the sale of intoxicating liquor by retail, by persons not licensed to deal therein, for consumption off the premises;

Retailers of beer.
Retailers of beer and wine.
Retailers of cider.
Retailers of wine.
Retailers of sweets.
Retailers of table beer.

Licences to deal in game.

Schedule 1. Licences for—

Beer dealers.	Carriages.
Spirit dealers.	Trade carts.
Sweets dealers.	Locomotives.
Wine dealers.	Horses and mules.
Refreshment-house keepers.	Horse dealers.
Dogs.	Armorial bearings.
Killing game.	Male servants.
Guns.	Hawkers.
Appraisers.	House agents.
Auctioneers.	Pawnbrokers.
Tobacco dealers.	Plate dealers.

Section 71.

SECOND SCHEDULE.

Alteration of Schedule to District Auditors Act, 1879.

(42 & 43 *Vict. c.* 6.)

The following scale shall, until otherwise determined by Parliament, be substituted for so much of the scale set forth in the First Schedule to the District Auditors Act, 1879, as relates to expenditure amounting to 100,000*l.* and upwards.

Where the Total of the Expenditure comprised in the Financial Statement is	The sum shall be
100,000*l.* and under 150,000*l.*...	50*l.*
150,000*l.* and under 200,000*l.*...	60*l.*
200,000*l.* and upwards...	15*l.* in addition for every 50,000*l.* or part thereof.

Sections 31, 34, 35, 36, 69.

THIRD SCHEDULE.

County Boroughs.

Name of Borough.	Name of County in which, for the purpose of this Act, the Borough is deemed to be situate.
Barrow	Lancaster.
Bath	Somerset.
Birkenhead	Chester.
Birmingham...	Warwick.
Blackburn	Lancaster.
Bolton	Lancaster.
Bootle cum Linacre...	Lancaster.

Schedule 3.

Name of Borough.	Name of County in which, for the purpose of this Act, the Borough is deemed to be situate.
Bradford	York, West Riding.
Brighton	Sussex.
Bristol	Gloucester and Somerset.
Burnley	Lancaster.
Bury	Lancaster.
Canterbury	Kent.
Cardiff	Glamorgan.
Chester	Chester.
Coventry	Warwick.
Croydon	Surrey.
Derby	Derby.
Devonport	Devon.
Dudley	Worcester.
Exeter	Devon.
Gateshead	Durham.
Gloucester	Gloucester.
Great Yarmouth	Norfolk and Suffolk.
Halifax	York, West Riding.
Hanley	Stafford.
Hastings	Sussex.
Huddersfield	York, West Riding.
Ipswich	Suffolk.
Kingston-upon-Hull	York, East Riding.
Leeds...	York, West Riding.
Leicester	Leicester.
Lincoln	Lincoln (parts of Lindsey).
Liverpool	Lancaster.
Manchester	Lancaster.
Middlesbrough	York, North Riding.
Newcastle-upon-Tyne	Northumberland.
Northampton	Northampton.
Norwich	Norfolk.
Nottingham	Nottingham.
Oldham	Lancaster.
Plymouth	Devon.
Portsmouth	Hants.
Preston	Lancaster.
Reading	Berks.
Rochdale	Lancaster.
Saint Helen's	Lancaster.
Salford	Lancaster.
Sheffield	York, West Riding.
Southampton	Hants.
South Shields	Durham.
Stockport	Chester and Lancaster.
Sunderland	Durham.
Swansea	Glamorgan.
Walsall	Stafford.
West Bromwich	Stafford.
West Ham	Essex.
Wigan	Lancaster.
Wolverhampton	Stafford.
Worcester	Worcester.
York	York, North, East, and West Ridings.

Preamble.

THE PREFERENTIAL PAYMENTS IN BANKRUPTCY ACT, 1888.

51 & 52 VICT. CHAP. 62.

An Act to amend the Law with respect to Preferential Payments in Bankruptcy, and in the winding-up of Companies.

[24th December, 1888.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Priority of debts.

1.—(1) In the distribution of the property of a bankrupt, and in the distribution of the assets of any company being wound up under the Companies Act, 1862, and the Acts amending the same, there shall be paid in priority to all other debts—

(*a*) All parochial or other local rates due from the bankrupt or the company at the date of the receiving order, or, as the case may be, the commencement of the winding-up, and having become due and payable within twelve months next before that time, and all assessed taxes, land tax, property or income tax assessed on the bankrupt or the company up to the fifth day of April next before the date of the receiving order, or, as the case may be, the commencement of the winding-up, and not exceeding in the whole one year's assessment;

This section is enacted in place of section 40 (1), (*a*), of the Bankruptcy Act, 1883. That Act provided only for the bankruptcy of a person rated. The present enactment applies also to the winding-up of a company. It provides in effect that all rates made upon a bankrupt or company within twelve months preceding the receiving order or winding-up shall be paid in full in priority to all other debts.

The law before this Act will be found in *Re Wearmouth Crown Glass Company*, 19 Ch. D. 640; 45 L. T. (N.S.) 757; 30 W. R. 316; *Re Watson Kepling and Company*, 23 Ch. D. 500; 31 W. R. 574; 52 L. J. Ch. 473; 49 L. T. (N.S. 115; *West Hartlepool Iron Company*, 34 L. T. (N.S.) 568, 570; *International Marine Hydropathic Company*, 28 Ch. D. 470; 33 W. R. 587; *National Arms and Ammunition Company*, 28 Ch. D. 474; 54 L. J. Ch. 673; 52 L. T. (N.S.) 237; 33 W. R. 585; 49 J. P. 90; *Flint Coal and Cannel Company*, 56 L. J. Ch. 232; 56 L. T. (N.S.) 16; *Dry Docks Corporation*, 39 Ch. D. 306; 58 L. J. Ch. 33; 59 L. T. (N.S.) 763; 37 W. R. 18.

In a case not within this Act, which did not come into operation until 31st December, 1888 (see section 5, *infra*), a rate became due and payable in respect of a company's premises before the commencement of a winding-up under the Companies Acts. *Held*, that the rate had not any priority as

Section 1.

NOTE.

between the claimants for the rate and other creditors of the same class, the case not being affected by section 10 of the Judicature Act, 1875, and section 40 of the Bankruptcy Act, 1883: *Re Art Engraving Company*, 60 L. T. (N.S.) 381; W. N. 1889, p. 38; 5 T. L. R. 275.

A. was assessed to a local rate as the occupier of certain premises, and his rate was payable in advance for half-a-year on the 8th October, 1886. On the 17th January, 1887, A. became bankrupt, and at that time the rate remained unpaid. On the 1st February, 1887, the official receiver as trustee sold A.'s interest in the premises to B., who allowed A. to remain in occupation as his tenant. The rate was claimed from the trustee for the whole half-year; the trustee offered to pay the proportion of it up to February 1st, being for the period during which he continued occupier. *Held*, that the bankrupt had not ceased to be occupier, and that the trustee was liable for the rate for the whole half-year: *Ex parte Ystradfodwyg Local Board, Re Thomas*, 57 L. J. Q. B. 39; 58 L. T. (N.S.) 113; 36 W. R. 143.

As to the rating of an official liquidator see *Reg.* v. *Curzon*, 46 L. T. (N.S.) 159; 30 W. R. 521; 47 J. P. 37.

(*b*) All wages or salary of any clerk or servant in respect of services rendered to the bankrupt or the company during four months before the date of the receiving order, or, as the case may be, the commencement of the winding-up, not exceeding fifty pounds; and

(*c*) All wages of any labourer or workman not exceeding twenty-five pounds, whether payable for time or for piece work, in respect of services rendered to the bankrupt or the company during two months before the date of the receiving order or, as the case may be, the commencement of the winding-up: Provided that where any labourer in husbandry has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, he shall have priority in respect of the whole of such sum, or a part thereof, as the court may decide to be due under the contract, proportionate to the time of service up to the date of the receiving order, or, as the case may be, the commencement of the winding-up.

(2) The foregoing debts shall rank equally between themselves and shall be paid in full, unless the property of the bankrupt is, or the assets of the company are, insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts shall be discharged forthwith so far as the property of the debtor, or the assets of the company, as the case may be, is or are sufficient to meet them.

(4) In the event of a landlord or other person distraining or

Section 1.

having distrained on any goods or effects of a bankrupt or a company being wound up within three months next before the date of the receiving order or the winding-up order respectively, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof.

Provided, that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom such payment is made.

This provision is new. It provides in effect that a landlord who distrains shall be liable to pay out of the proceeds of the distress the amount of the preferential debts specified in sub-section (1).

(5) This section, so far as it relates to the property of a bankrupt, shall have effect as part of section forty of the Bankruptcy Act, 1883.

(6) This section shall apply, in the case of a deceased person who dies insolvent, as if he were a bankrupt, and as if the date of his death were substituted for the date of the receiving order.

This provision applies the present Act to the administration in bankruptcy of the estate of a person dying insolvent under section 125 of the Bankruptcy Act, 1883. See section 3, *infra*.

Savings.

2.—(1) Nothing in this Act shall alter the effect of section five of the Act twenty-eight and twenty-nine Victoria, chapter eighty-six, "To amend the law of partnership," or shall prejudice the provisions of the Friendly Societies Act, 1875, or shall affect the priority given to the payment of funeral and testamentary expenses by section one hundred and twenty-five of the Bankruptcy Act, 1883.

The 28 & 29 Vict. c. 86, provides that certain circumstances shall not constitute a person a partner, or give him the rights of a partner, or render him responsible as such. These are, (1) the advance of money to a person engaged in any trade or undertaking upon a contract to receive a rate of interest varying with the profits or a share in the profits; (2) the remuneration of servants or agents by a share of profits; (3) the receipt by way of annuity of a portion of the profits by the widow or child of a deceased partner; (4) the receipt of an annuity or other portion of the profits in consideration of the sale of the goodwill of a business. Section 5 of that Act provides that in the event of any such trader as aforesaid being adjudged a bankrupt, or taking the benefit of any Act for the relief of insolvent debtors, or entering into an arrangement to pay his creditors less than 20*s.* in the £, or dying in insolvent circumstances, the lender of any such loan as aforesaid shall not be entitled to recover any portion of his principal, or of the profits or interest payable in respect of such loan, nor shall any such vendor of a goodwill as aforesaid be entitled to recover any such profits as aforesaid until the claims of the other creditors of the said trader for [valuable consideration in money or money's worth have been

satisfied. It has been held that this section does not deprive the lender of his right to retain any security he may have taken for his money, nor to foreclose his security. *Ex parte Shiel*, 4 Ch. D. 789; *Baddeley* v. *The Consolidated Bank*, 34 Ch. D. 536. Section 2. NOTE.

The Friendly Societies Act, 1875, section 15, sub-section (7), provides as follows:—Upon the death, or bankruptcy, or insolvency of any officer of a society (or branch), having in his possession by virtue of his office any money or property belonging to the society (or branch), or if any execution, attachment, or other process be issued, or action or diligence raised against such officer, or against his property, his heirs, executors, or administrators, or trustee in bankruptcy or insolvency, or the sheriff or other person executing such process, or the party using such action or diligence respectively shall, upon demand in writing of the trustees of the society (or branch), or any two of them, or any person authorised by the society (or branch), or by the committee of management of the same, to make such demand, pay such money and deliver over such property to the trustee of the society (or branch) in preference to any other debts or claims against the estate of such officer.

The Bankruptcy Act, 1883, section 125 (7), provides as follows:—In the administration of the property of the deceased debtor under an order of administration, the official receiver shall have regard to any claim by the legal personal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate, and such claims shall be deemed a preferential debt under the order, and be payable in full, out of the debtor's estate, in priority to all other debts.

The Stannaries Act, 1887, 50 & 51 Vict. c. 43, contains provisions giving wages priority in the payment of debts due by the company.

(2) Nothing in this Act shall affect the provisions of the Stannaries Act, 1887. 50 & 51 Vict. c. 43.

3. This Act shall apply only in the case of receiving orders and orders for the administration of the estates of deceased debtors according to the law of bankruptcy made and windings-up commenced after the commencement of this Act. Application of Act.

4. This Act shall not apply to Ireland. Extent of Act.

5. This Act shall commence and come into operation from and immediately after the last day of December, one thousand eight hundred and eighty-eight. Commencement of Act.

6. The enactments specified in the schedule hereto are hereby repealed to the extent in the third column of that schedule mentioned. Repeal.

7. This Act may be cited as the Preferential Payments in Bankruptcy Act, 1888. Short title.

Schedule.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Title.	Extent of Repeal.
46 & 47 Vict. c. 28	The Companies Act, 1883	The whole Act, except as regards its application to Ireland.
46 & 47 Vict. c. 52	The Bankruptcy Act, 1883	Section forty, sub-sections one and two.
49 & 50 Vict. c. 28	The Bankruptcy (Agricultural Labourers' Wages) Act, 1886.	The whole Act.

THE ARMY (ANNUAL) ACT, 1889.

52 VICT. CHAP. 3.

An Act to provide, during twelve months, for the Discipline and Regulation of the Army. [11th April, 1889.]

* * * * *

Short title.

1. This Act may be cited as the Army (Annual) Act, 1889.

* * * * *

Amendment of 44 & 45 Vict. c. 58, s. 91, as to lunatics.

5. Whereas doubts have arisen as to the effect of certain provisions of section ninety-one of the Army Act, 1881, and it is expedient to remove those doubts; be it therefore enacted as follows:—

(1) In sub-section three of the said section for the words "and shall be subject accordingly to the provisions of that section" shall be substituted the words "and the like proceedings shall be taken thereon as on an order under that section."

(2) In sub-section four of the same section for the words "section eighty-five of the Act of the session of the twentieth and twenty-first years of the reign of Her

Section 5.

present Majesty, chapter seventy-one, intituled, 'An Act for the regulation of the care and treatment of lunatics, and for the provision, maintenance, and regulation of lunatic asylums in Scotland,' and shall be subject accordingly to the provisions of that section," shall be substituted the words "section fifteen of the Act of the session of the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter fifty-four, intituled 'An Act to make further provision respecting lunacy in Scotland,' and the like proceedings shall be taken thereon as on an order under that section."

(3) In sub-section five of the said section for the word "soldier" shall be substituted the word "lunatic."

These amendments have been duly noticed in the notes to 44 & 45 Vict. c. 58, s. 91, *ante*, p. 95.

Amendment of 44 & 45 Vict. c. 58, s. 146, as to exemption from service as sheriff, &c.

6. Whereas by section one hundred and forty-six of the Army Act, 1881, it is enacted as follows:

"A person who is commissioned and in full pay as an officer in Her Majesty's regular forces, shall not be capable of being nominated or elected to be sheriff of any county, borough, or other place, or to be mayor or alderman of, or to hold any office in, any municipal corporation in any city, borough, or place in the United Kingdom;"

And it is expedient that this section should apply to all commissioned officers in Her Majesty's regular forces whilst on the active list, although not on full pay: Be it therefore enacted, that in that section for the words "A person who is commissioned and in full pay as an officer in Her Majesty's regular forces," shall be substituted the words "An officer of the regular forces on the active list within the meaning of any Royal Warrant for regulating the pay and promotion of the regular forces."

See the 44 & 45 Vict. c. 58, s. 146, *ante*, p. 100.

* * * * *

Preamble.

THE PUBLIC LIBRARIES ACTS AMENDMENT ACT, 1889.

52 VICT. CHAP. 9.

An Act to amend the Public Libraries Act, 1855.
[31st May, 1889.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Repeal of 18 & 19 Vict. c. 70, s. 13, and provisions in lieu thereof.

1. Section thirteen of the Public Libraries Act, 1855, shall be repealed, and in place thereof the following provisions shall have effect.

The expenses of calling and holding the meeting of the ratepayers, whether the Public Libraries Acts shall be adopted or not, and the expenses of carrying those Acts into execution in any parish, to such amount as shall be from time to time sanctioned by the vestry, shall be paid out of a rate to be raised with and as part of the poor rate; provided that every person assessed to such rate in respect of lands used as arable, meadow, or pasture ground only, or as woodlands or market gardens, or nursery grounds, shall be entitled to an allowance of two-thirds of the sum assessed upon him in respect of such lands for such expenses; the vestry to be called for the purpose of sanctioning the amount shall be convened in the manner usual in the parish; and the amount for the time being proposed to be raised for such expenses shall be expressed in the notice convening the vestry, and shall be paid according to the order of the vestry, to such person as shall be appointed by the Commissioners to receive the same: Provided also, that in the notices requiring the payment of the rate there shall be stated the proportion which the amount to be thereby raised for the purposes of the said Acts shall bear to the total amount of the rate.

The repealed section was identical with the text, except that it contained instead of the words from "shall be paid" to "for such expenses," the following words—"shall be paid out of a rate to be made and recovered in like manner as a poor rate, except that every person occupying lands used as arable, meadow, or pasture ground only, or as woodlands, or market gardens, or nursery grounds, shall be rated in respect of the same in the proportion of one-third part only of the full net annual value thereof respectively."

Section 2.

2. Nothing in this Act shall be deemed to invalidate any rate made prior to the passing thereof, and any expenses to which section thirteen of the Public Libraries Act, 1855, applied, may be paid out of any such rate as if this Act had not passed.

Proviso as to rate made before passing of Act.

Joint library for several parishes.

3. It shall be lawful for the Commissioners separately appointed under the Public Libraries (England) Acts, 1855 to 1887, for any two or more adjoining parishes, with the consent of the vestries of such parishes, from time to time to agree to share in such proportions and for such period as may be determined by the agreement, the cost of the purchase, erection, repair, and maintenance of any library building situate in one of such parishes, and also the cost of the purchase of books, periodicals, and newspapers for such library, and all other expenses connected with the same; and the inhabitants of both or all the said parishes, as the case may be, shall be entitled to use the said library so long as the agreement shall continue in force.

And any such agreement may provide that upon its termination an adjustment shall be made of the interests of the several Commissioners in the library building, books, and other property to which they have contributed, and as to the mode in which such adjustment shall be arrived at.

This section applies where the Acts have been adopted, and Commissioners appointed in two or more adjoining parishes. It is quite distinct from 18 & 19 Vict. c. 70, s. 14, which enables the vestries of two or more parishes to adopt the Acts.

Short title.

4. This Act may be cited as the Public Libraries Acts Amendment Act, 1889, and this Act and the Public Libraries (England) Acts, 1855 to 1887, shall be read and construed together as one Act, and may be cited together as the Public Libraries (England) Acts, 1855 to 1889.

Preamble.

THE SALE OF HORSEFLESH, &c., REGULATION ACT, 1889.

52 & 53 VICT. CHAP. 11.

An Act to regulate the Sale of Horseflesh for Human Food.

[24th June, 1889.]

WHEREAS it is desirable to make regulations with respect to the sale of horseflesh for human food:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Signs on horseflesh shops.

1. No person shall sell, offer, expose, or keep for sale any horseflesh for human food, elsewhere than in a shop, stall, or place over or upon which there shall be at all times painted, posted, or placed in legible characters of not less than four inches in length, and in a conspicuous position, and so as to be visible throughout the whole time, whether by night or day, during which such horseflesh is being offered or exposed for sale, words indicating that horseflesh is sold there.

This section applies only to the sale of horseflesh for human food. If horseflesh is found in any shop, &c., where there is no sign as required by this section, the burden of proving that it was not intended for human food is on the defendant. See section 6, *infra*, which also prescribes the penalty for an offence against this section.

Horseflesh not to be sold as other meat.

2. No person shall supply horseflesh for human food to any purchaser who has asked to be supplied with some meat other than horseflesh, or with some compound article of food which is not ordinarily made of horseflesh.

As to the penalty for infringing this section, see section 6, *infra*. It is presumed that the above section would apply in the case of a person who asked for beef and was supplied with horseflesh.

Power of medical officer of health to inspect meat, &c.

3. Any medical officer of health or inspector of nuisances or other officer of a local authority acting on the instructions of such authority or appointed by such authority for the purposes of this Act may at all reasonable times inspect and examine any meat which he has reason to believe to be horseflesh, exposed for sale or deposited for the purpose of sale, or of preparation for sale, and intended for human food, in any place other than such shop, stall, or place as aforesaid, and if such meat appears to him to be horseflesh he may seize and carry away or cause to

be seized and carried away the same, in order to have the same dealt with by a justice as hereinafter provided. Section 3.

The local authority may be an urban or a rural sanitary authority. See section 8, *infra*.

It is submitted that the medical officer or inspector of nuisances may act without instructions or special appointment.

The "shop, stall, or place as aforesaid," is a shop, &c., which has a sign as required by section 1.

The justice will deal with the horseflesh in manner provided by section 5, *infra*.

Power of justice to grant warrant for search.

4. On complaint made on oath by a medical officer of health or inspector of nuisances, or other officer of a local authority, any justice may grant a warrant to any such officer to enter any building, or part of a building other than such shop, stall, or place as aforesaid, in which such officer has reason for believing that there is kept or concealed any horseflesh which is intended for sale, or for preparation for sale for human food, contrary to the provisions of this Act; and to search for, seize, and carry away or cause to be seized and carried away any meat that appears to such officer to be such horseflesh, in order to have the same dealt with by a justice as hereinafter provided.

Any person who shall obstruct any such officer in the performance of his duty under this Act shall be deemed to have committed an offence under this Act.

The "shop, stall, or place as aforesaid," is a shop, &c., which has a sign as required by section 1.

The justice will deal with the horseflesh in manner provided by section 5, *infra*.

As to the penalty for obstructing the officer, see section 6, *infra*.

Power of justice with reference to disposal of horseflesh.

5. If it appears to any justice that any meat seized under the foregoing provisions of this Act is such horseflesh as aforesaid, he may make such order with regard to the disposal thereof as he may think desirable; and the person in whose possession or on whose premises the meat was found shall be deemed to have committed an offence under this Act, unless he proves that such meat was not intended for human food contrary to the provisions of this Act.

A very wide discretion is left to the justice as to the order he may make. He may order the meat to be destroyed, or he may order it to be sold for food for dogs or the like.

The burden of proving that the horseflesh was not intended for human food is on the defendant.

Penalty.

6. Any person offending against any of the provisions of this Act, for every such offence shall be liable to a penalty not exceeding twenty pounds, to be recovered in a summary manner;

Section 6. and if any horseflesh is proved to have been exposed for sale to the public in any shop, stall, or eating-house other than such shop, stall, or place as in the first section mentioned, without anything to show that it was not intended for sale for human food, the onus of proving that it was not so intended shall rest upon the person exposing it for sale.

The penalty will be recoverable in manner provided by the Summary Jurisdiction Acts. See the Summary Jurisdiction Act, 1879, section 51, *ante*, p. 49.

Observe that the Act applies to the sale of horseflesh in an eating-house. See the next section.

Definition of "horseflesh."

7. For the purposes of this Act "horseflesh" shall include the flesh of asses and mules, and shall mean horseflesh, cooked or uncooked, alone or accompanied by or mixed with any other substance.

In rural districts the guardians acting as the rural sanitary authority will have the duty of enforcing this Act.

Local authorities for purposes of Act.

8. For the purposes of this Act the local authorities shall be, in the City of London and the liberties thereof, the Commissioners of Sewers, and in the other parts of the county of London the vestries and district boards acting in the execution of the Metropolis Local Management Acts, and in other parts of England the urban and rural sanitary authorities, and in Ireland the urban and rural sanitary authorities under the Public Health (Ireland) Act, 1878.

41 & 42 Vict. c. 52.

Application to Scotland.

9. In the application of this Act to Scotland the expression "justice" shall include sheriff and sheriff substitute, and the expression "local authority" shall mean any local authority authorised to appoint a public analyst under the Sale of Food and Drugs Act, 1875, and the procedure for the enforcement of this Act shall be in the manner provided in the thirty-third section of the said Sale of Food and Drugs Act, 1875.

38 & 39 Vict. c. 63.

Short title.

10. This Act may be cited as the sale of Horseflesh, &c., Regulation Act, 1889.

Commencement of Act.

11. This Act shall come into operation on the twenty-ninth day of September, one thousand eight hundred and eighty-nine.

Preamble.

THE REGISTRATION OF COUNTY ELECTORS (EXTENSION OF TIME) ACT, 1889.

52 & 53 VICT. CHAP. 19.

An Act to extend the time for the Preparation of the Registers of County Electors in England and Wales.

[26th July, 1889.]

WHEREAS it is provided by the Registration of Electors Acts, 1843 to 1888, that the county registers, that is to say, the registers of the names of county electors and burgesses, shall be completed on or before the twentieth day of October in each year, and shall come into operation on the first day of November following:

And whereas it is expedient to make temporary provision for extending the time allowed for the preparation and printing of such registers:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Alteration of dates for completing registers of county electors in 1889 and 1890.

1.—(1) In each of the years one thousand eight hundred and eighty-nine and one thousand eight hundred and ninety, notwithstanding anything in the Registration of Electors Acts, 1843 to 1888, contained, the revision of the lists of parliamentary voters and county electors may be later than the twelfth day of October, so that it be not later than the twentieth day of October, and every county register shall be completed on or before the thirtieth day of November, and shall come into operation on the first day of January following, and shall continue in operation until the next county register comes into operation.

But for this provision the revision of the lists of parliamentary voters and county electors in the present year would have to be completed on the 12th October (51 Vict. c. 10, s. 6, *ante*, p. 513), and the county register would have to be completed on the 20th October (45 & 46 Vict. c. 50, s. 45, *ante*, p. 131; 51 Vict. c. 10, s. 7, *ante*, p. 514).

45 & 46 Vict. c. 50.

(2) Sub-section two of section forty-five of the Municipal Corporations Act, 1882, shall not apply to any register of county electors completed in either of the said years.

See this sub-section, *ante*, p. 131.

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(3) Provided that nothing in this Act shall alter the dates for the completion and coming into operation of the burgess roll for any municipal borough; and any new burgess roll for a borough, which comes into operation on the first day of November in either of the said years, shall be substituted in the then current county register for so much of that register as consists of the burgess roll for that borough.

The burgess roll must be completed before the 20th October. See 45 & 46 Vict. c. 50, s. 45, *ante*, p. 131.

Short title and construction.

2. This Act may be cited as the Registration of County Electors (Extension of Time) Act, 1889, and shall be construed as one with the Registration of Electors Acts, 1843 to 1888.

THE ADVERTISING STATIONS (RATING) ACT, 1889.

52 & 53 VICT. CHAP. 27.

An Act to amend the Law with respect to rating Places used for Advertisements. [12th August, 1889.]

WHEREAS difficulties have arisen in relation to the assessment to poor and other rates of land used for exhibition of advertisements and it is expedient to remove the same:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Advertising Stations (Rating) Act, 1889.

Before the passing of this Act there was considerable uncertainty as to whether or in what cases advertisement hoardings were rateable. In *Reg.* v. *St. Pancras Assessment Committee*, 2 Q. B. D. 581; 46 L. J. M. C. 243; 27 L. T. (N.S.) 126; 41 J. P. 403, it was held that a license in the nature of an easement to erect advertisement hoardings upon land in the possession of the licensee does not create in the licensee an occupation of the soil so as to render him liable to be rated in respect of the hoardings; and that to constitute an occupation of land within the meaning of the Rating Acts by a person erecting hoardings on the land of another, there must be either a demise to him of the soil on which the hoardings rest, or they must be permanently attached to the soil as a fixture and give the actual and exclusive possession of such soil to him. It was difficult to reconcile this decision with the later one of *Taylor* v. *Pendleton* (*Overseers of*), 19 Q. B. D. 288. There, by an agreement between an owner of land and an advertising

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agent, the owner agreed to let, and the agent to take, an advertising station at a yearly rent, the tenancy to commence from completion of erection, and continue seven years, and the agent agreed to pay rates and taxes. By another agreement the owner agreed to allow the advertising agent the privilege of erecting an advertising hoarding, the agent to pay a yearly rent, and the owner agreed to allow the agent the further privilege of removing a wall, the agreement to remain in force for three years, and be afterwards terminable by twelve months' notice, but if the owner should be obliged to give less than twelve months' notice he agreed to refund 20*l.* In both agreements the dimensions of the hoardings to be erected were specified. Advertising hoardings supported on posts fixed into the ground were erected. In the first case the structure was used partly by the owner as a shed, and partly by the advertising agent as a hoarding; in the second case, exclusively by the agent as a hoarding. *Held*, that each of the agreements created a tenancy, and conferred an exclusive occupation, and not merely a license, and therefore the advertising agent was liable to be rated to the relief of the poor in respect of both hoardings as the occupier of advertising stations.

Questions of rateability cannot now arise, having regard to this Act.

Definitions.

2. In this Act the term "owner" means the person for the time being receiving or entitled to receive the rackrent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive or be entitled to receive the same if such lands or premises were let at a rackrent; and the word "person" shall be deemed to include any body of persons whether corporate or unincorporate.

This definition resembles that in the Public Health Act, 1875, s. 4. The cases decided upon that section will therefore serve to elucidate the text. See *Lumley's Public Health*, p. 7. Where property is let at a rackrent and sub-let at a rackrent the lessor who receives the rackrent from the actual occupier will be the owner as above defined; *Cook* v. *Montague*, L. R. 7 Q. B. 418; 41 L. J. M. C. 149; 37 J. P. 53; *Bowen* v. *James*, 10 L. R. Ir. 26. As to the liability of an agent as owner, see *St. Helen's (Mayor, &c., of)* v. *Kirkham*, 16 Q. B. D. 403; 34 W. R. 440; 50 J. P. 647. A receiver appointed by the court is not an owner within the definition: *Bacup (Corporation of)* v. *Smith*, W. N. 1890, p. 90; L. J. (N. C.) 1890, p. 54.

Rating land used for advertisements and not otherwise occupied.

3. Where any land is used temporarily or permanently for the exhibition of advertisements, or for the erection of any hoarding, frame, post, wall or structure used for the exhibition of advertisements but not otherwise occupied, the person who shall permit the same to be so used, or (if he cannot be ascertained) the owner thereof, shall be deemed to be in beneficial occupation of such land or part there of, and shall be rateable in respect thereof to the relief of the poor and all local rates, according to the value of such use as aforesaid.

This section applies to unoccupied lands and premises. If these are used for advertisements the person who permits them to be so used (who may or may not be the owner as above defined) or, failing him, the owner is liable to be rated according to the value of the use of the land. This

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provision seems to involve a re-assessment of the land and perhaps a new or supplemental valuation list, and it is by no means easy to carry it into effect.

Rating occupied hereditaments used for advertisements.

4. Where any land or hereditament occupied for other purposes, and rateable in respect thereof to the relief of the poor and local rates, is used temporarily or permanently for the exhibition of advertisements, or for the erection thereon or attachment thereto of any hoarding, frame, post, wall, or structure used for the exhibition of advertisements, the gross and rateable value of such land or hereditament shall be so estimated as to include the increased value from such use as aforesaid.

This section applies to occupied lands and premises. If these are used for advertising purposes the gross and rateable values must be increased, and this will also involve a new assessment, the occupier, not the owner, being liable for the rates, including the increase.

Use of hoarding in roads for advertisements.

5. Where, under any power vested in them by any local or general Act, any corporation, board, vestry, urban, sanitary, or other authority shall grant a licence for the temporary erection of any hoard, gantry, scaffold, or other structure upon or over any part of any public highway, or upon or over any lands or hereditaments the property of such corporation, board, vestry, sanitary, or other authority, such corporation, board, vestry, sanitary, or other authority may include in such licence a condition or conditions prohibiting the affixing of any advertisement to any such hoard, gantry, scaffold, or other structure, or sanctioning the affixing of advertisements thereto upon payment of such sum and on such conditions as the corporation, board, vestry, sanitary, or other authority granting the licence may determine. And any person using any such hoard, gantry, scaffold, or other structure otherwise than as permitted by such licence shall for every offence be liable to a penalty not exceeding five pounds, and a further sum not exceeding forty shillings for every day during which such offence shall be continued after notice in writing to discontinue such use shall have been given to such person by such corporation, board, vestry, sanitary, or other authority, which penalties may be recovered in a summary way by such corporation, board, vestry, sanitary, or other authority.

The amount of any payments received or penalties recovered under this section shall be applied by the corporation, board, vestry, sanitary, or other authority receiving the same in aid of the rate levied for the repair of the highway.

A license for the erection of a hoarding is necessary under the Metropolis Management Act, 1855, 18 & 19 Vict. c. 120, s. 122. But it is

doubtful whether there is any other general Act requiring a license. No license is necessary under the Towns Improvement Clauses Act, 10 & 11 Vict. c. 34, s. 80.

Section 5. NOTE.

Penalties under this section are recoverable under the Summary Jurisdiction Acts. See 42 & 43 Vict. c. 49, s. 51, *ante*, p. 49.

Application of Act to Ireland.

6. In the application of this Act to Ireland—

(1) Any land used temporarily or permanently for the exhibition of advertisements, or for the erection of any hoarding, frame, post, wall, or structure used for the exhibition of advertisements, shall be deemed to be a rateable hereditament within the meaning of the several Acts relating to the valuation of rateable property in Ireland, and shall be separately valued accordingly under the provisions of the said Acts;

(2) The expression "local rates" shall include grand jury cess;

(3) Section four shall be read and construed as if after the words "shall be so estimated" there were inserted the words "for the purposes of the several Acts relating to the valuation of rateable property in Ireland."

Commencement of Act.

7. This Act shall come into operation on the twenty-ninth day of September, one thousand eight hundred and eighty-nine.

THE BOARD OF AGRICULTURE ACT, 1889.

52 & 53 VICT. CHAP. 30.

An Act for establishing a Board of Agriculture for Great Britain. [12th August, 1889.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Establishment of Board of Agriculture.

1.—(1) There shall be established a Board of Agriculture consisting of the Lord President of the Council, Her Majesty's Principal Secretaries of State, the First Commissioner of Her Majesty's Treasury, the Chancellor of Her Majesty's Exchequer, the Chancellor of the Duchy of Lancaster, and the Secretary for Scotland, and such other persons (if any) as Her Majesty the Queen may from time to time think fit to appoint during Her

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Majesty's pleasure: Provided that the Board shall not be entitled to act unless the President or one of the officers of State above mentioned is present.

(2) It shall be lawful for Her Majesty the Queen from time to time to appoint any member of the Privy Council to be President of the Board during Her Majesty's pleasure.

(3) The Board shall be deemed to be established on the appointment of the President thereof.

Powers and duties of Board.

2.—(1) There shall be transferred to the Board of Agriculture—

(*a*) The powers and duties of the Privy Council under the Acts mentioned in Part One of the First Schedule to this Act;

(*b*) The powers and duties of the Land Commissioners for England under the Acts mentioned in Part Two of the First Schedule to this Act or under any other Act, whether general, local and personal, or private; and

(*c*) On such date as shall be fixed by the Commissioners of Her Majesty's Treasury all powers and duties vested in the Commissioners of Her Majesty's Works and Public Buildings under the Survey Act, 1870.

33 & 34 Vict. c. 13.

The transfer effected by this section affects parochial, union, and sanitary authorities to an important extent, as will be seen from the schedule. The substitution of the Board of Agriculture for the several named authorities has been noticed under the several sections included in this Work where such authorities are mentioned.

(2) The Board of Agriculture shall also undertake the collection and preparation of statistics relating to agriculture, and forestry, and may also undertake the inspection of, and reporting on, any schools which are not public elementary schools, and in which technical instruction, practical or scientific, is given in any matter connected with agriculture or forestry, and the aiding of any school which admits such inspection, and in the judgment of the board is qualified to receive such aid and the aiding of any system of lectures or instruction connected with agriculture or forestry, and the inspection of and reporting on any examinations in agriculture or forestry.

(3) The Board of Agriculture may also make or aid in making such inquiries, experiments, and research, and collect or aid in collecting such information as they may think important for the purpose of promoting agriculture or forestry.

Section 3.

3. The Board of Agriculture may from time to time make such general or special orders as they think fit for the following purposes, or any of them, that is to say— Power as to dogs.

(*a*) For prescribing and regulating the muzzling of dogs, and the keeping of dogs under control;

(*b*) For prescribing and regulating the seizure, detention, and disposal (including slaughter) of stray dogs, and of dogs not muzzled, and of dogs not being kept under control, and the recovery from the owners of dogs of the expenses incurred in respect of their detention;

and the Contagious Diseases (Animals) Acts, 1878 to 1886, shall apply as if the said purposes were among the purposes mentioned in section thirty-two of the Contagious Diseases (Animals) Act, 1878. 41 & 42 Vict. c. 74.

Orders have been made under this section. See the Rabies (Muzzling of Dogs) Order of 1889, and the Rabies (Amendment) Order of 1889. As to the power to make such orders under the Contagious Diseases Animals Acts, see *Bellhouse* v. *Leighton*, 58 L. J. M. C. 67; 60 L. T. (N.S.) 393; 53 J. P. 341.

Power to transfer other powers of Government departments.

4. It shall be lawful for Her Majesty the Queen in Council from time to time by order to transfer to the Board of Agriculture such powers and duties of any Government department as are conferred by or in pursuance of any statute, and appear to Her Majesty to relate to agriculture or forestry, and to be of an administrative character;

Provided that before any such order is made, the draft thereof shall be laid before each House of Parliament for not less than thirty days on which such House is sitting, and if either of such Houses before the expiration of such thirty days presents an address to Her Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft order.

Provided also, that nothing in this Act contained shall in any respect affect the exclusive control of the Secretary of State in Council of India over the candidates for the Indian Forest Department at Cooper's Hill College or elsewhere.

Staff and remuneration and expenses.

5.—(1) The Board of Agriculture may from time to time appoint a secretary and such officers and servants as the Board may, with the sanction of the Treasury, determine.

(2) There shall be paid out of money provided by Parliament to the President, if not one of the Officers of State above mentioned, nor any other Officer of State receiving a salary, the

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annual salary of two thousand pounds a year, and to the secretary, officers, and servants of the Board such salaries or remuneration as the Treasury may from time to time determine.

(3) All expenses incurred by the Board of Agriculture in the execution of their duties under this Act, to such amount as may be sanctioned by the Treasury, shall be paid out of money provided by Parliament.

Style and seal of Board.

6.—(1) The Board of Agriculture may sue and be sued, and may for all purposes be described, by that name.

(2) The Board shall have an official seal, which shall be officially and judicially noticed, and such seal shall be authenticated by the signature of the president or some member of the Board, or of the secretary, or some person authorised by the President of the Board to act on behalf of the secretary.

(3) In the execution and discharge of any power or duty transferred to the Board of Agriculture by or in pursuance of this Act, the Board shall adopt and use the style and seal of the Board of Agriculture and no other.

Proceedings of Board.

7.—(1) Every document purporting to be an order, licence, or other instrument issued by the Board of Agriculture, and to be sealed with the seal of the Board, authenticated in manner provided by this Act, or to be signed by a secretary or any person authorised by the President of the Board to act on behalf of the secretary shall be received in evidence and be deemed to be such order, licence, or instrument without further proof, unless the contrary is shown.

(2) A certificate signed by the President or any member of the Board of Agriculture, that any order, licence, or other instrument purporting to be made or issued by the Board is so made or issued, shall be conclusive evidence of the fact so certified.

Power of President to sit in Parliament. 30 & 31 Vict. c. 102, s. 52. 31 & 32 Vict. c. 48, s. 51. 31 & 32 Vict. c. 49, s. 11.

8.—(1) The office of President of the Board of Agriculture shall not render the person holding the same incapable of being elected to, or sitting or voting as a member of, the Commons House of Parliament, and shall be deemed to be an office included in Schedule H. of the Representation of the People Act, 1867, Schedule H. of the Representation of the People (Scotland) Act, 1868, and Schedule E. of the Representation of the People (Ireland) Act, 1868.

(2) The President of the Board of Agriculture, if not one of the officers of State above in this Act mentioned, shall take the

oath of allegiance and official oath, and shall be deemed to be included in the first part of the schedule to the Promissory Oaths Act, 1868. Section 8.

Transfer of officers.

9.—(1) There shall be transferred and attached to the Board of Agriculture such of the persons employed under the Privy Council or any other Government department, in or about the execution of the powers and duties transferred by or in pursuance of this Act to the Board of Agriculture as the Privy Council, or Government department, with the sanction of the Treasury, determine.

(2) There shall be tranferred and attached to the Board of Agriculture all persons employed under the Land Commissioners for England.

(3) The Board of Agriculture may from time to time distribute the business of the Board amongst the several persons transferred thereto in pursuance of this Act in such manner as the Board may think right, and those officers shall perform such duties in relation to that business as may be directed by the Board.

Provided that such persons shall, while they continue in office, be in no worse position as respects their tenure of office, salaries, or superannuation allowances than they would have been in if this Act had not passed.

(4) Any Order in Council made in pursuance of this Act which transfers any powers or duties to the Board of Agriculture shall extend this section to the persons employed in or about the execution of those powers and duties.

Ultimate abolition of Land Commissioners.

10. After the establishment of the Board of Agriculture, no person shall be appointed to the office of Land Commissioner for England.

Provided that any person who holds office as Land Commissioner at the passing of this Act shall be assigned such position in or under the Board of Agriculture as Her Majesty may direct, so that he is not placed in any worse position as respects his tenure of office, salary, or superannuation allowance than he would have been in if this Act had not passed.

Construction of Acts and documents.

11.—(1) In the construction and for the purposes of any Act of Parliament, judgment, decree, order, award, deed, contract, or other document passed, or made before the establishment of the Board of Agriculture, but so far only as may be necessary for the exercise of the powers or the discharge of the duties

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by this Act, or any Order in Council made in pursuance thereof, transferred to that Board, the name of that Board shall be substituted for the Privy Council, Land Commissioners for England, Inclosure Commissioners for England and Wales, Copyhold Commissioners, Tithe Commissioners for England and Wales, or other Commissioners or Government department, as the case may require, and anything authorised or required to be done by, to, or before an Assistant Commissioner of any of the above-named Commissioners may be lawfully done by any officer of the Board of Agriculture for the time being assigned for that purpose.

(2) Where anything has been commenced by or under the authority of the Privy Council, Land Commissioners, or other Government department, before the transfer to the Board of Agriculture of any powers or duties by or in pursuance of this Act, and such thing is in relation to the powers or duties so transferred, such thing may be carried on and completed by or under the authority of the Board of Agriculture.

(3) Where at the time of the transfer of any powers or duties by or in pursuance of this Act, any legal proceeding is pending, to which the Privy Council, Land Commissioners or other Government department are parties, and such proceeding has reference to the powers and duties transferred by or in pursuance of this Act, the Board of Agriculture shall be substituted in such proceeding for the Privy Council, Land Commissioners, or other Government department, and such proceeding shall not abate by reason of such substitution.

Definitions.

12. In this Act—

The expression "agriculture" includes horticulture:

The expression "the Treasury" means the Commissioners of Her Majesty's Treasury:

The expression "the Privy Council" means Her Majesty's most Honourable Privy Council.

Repeal.

13. The Acts specified in the Second Schedule to this Act are, as from the date of the establishment of the Board of Agriculture, hereby repealed to the extent in the third column of that schedule mentioned.

Provided that this repeal shall not affect the tenure of office, salary, or allowance of any person holding office at the passing of this Act, and shall not affect the exercise by the Board of Agriculture of any power which at the passing of this Act can

be exercised by the Land Commissioners for England, and shall not affect the validity of any order or act which prior to the date of the said establishment has been made or done by the Privy Council, and all orders of the Privy Council in force at that date in relation to the powers and duties transferred by this Act to the Board of Agriculture shall continue in force until revoked or altered by that Board. Section 13.

14. This Act may be cited as the Board of Agriculture Act, 1889. Short title.

FIRST SCHEDULE.

PART I.

Section 2.

Acts relating to Powers and Duties of the Privy Council transferred to Board of Agriculture.

Session and Chapter.	Title.
40 & 41 Vict. c. 68 -	The Destructive Insects Act, 1877.
41 & 42 Vict. c. 74 -	The Contagious Diseases (Animals) Act, 1878.
47 & 48 Vict. c. 13 -	The Contagious Diseases (Animals) Act, 1884.
47 & 48 Vict. c. 47 -	The Contagious Diseases (Animals) Transfer of Parts of Districts Act, 1884.
49 & 50 Vict. c. 32 -	The Contagious Diseases (Animals) Act, 1886.

PART II.

Acts relating to Powers and Duties of Land Commissioners for England.

Tithe Rentcharge Acts.

Session and Chapter.	Title or Short Title.
6 & 7 Will. 4, c. 71 -	An Act for the Commutation of Tithes in England and Wales.
7 Will. 4, and 1 Vict. c. 69.	An Act to amend an Act for the Commutation of Tithes in England and Wales.
1 & 2 Vict. c. 64 -	An Act to facilitate the merger of Tithes in Land.

Schedule 1.

Session and Chapter.	Title or Short Title.
2 & 3 Vict. c. 62 -	An Act to explain and amend the Acts for the Commutation of Tithes in England and Wales.
3 & 4 Vict. c. 15 -	An Act further to explain and amend the Acts for the Commutation of Tithes in England and Wales.
5 & 6 Vict. c. 54 -	An Act to amend the Acts for the Commutation of Tithes in England and Wales, and to continue the Officers appointed under the said Acts for a time to be limited.
9 & 10 Vict. c. 73 -	An Act further to amend the Acts for the Commutation of Tithes in England and Wales.
10 & 11 Vict. c. 104 -	An Act to explain the Acts for the Commutation of Tithes in England and Wales, and to continue the Officers appointed under the said Acts until the first day of October, one thousand eight hundred and fifty, and to the end of the then next session of Parliament.
23 & 24 Vict. c. 93 -	An Act to amend and further extend the Acts for the Commutation of Tithes in England and Wales.
31 & 32 Vict. c. 89 -	An Act to alter certain provisions in the Acts for the Commutation of Tithes, the Copyhold Acts, and the Acts for the Inclosure, Exchange, and Improvement of Land; and to make provision towards defraying the expense of the Copyhold, Inclosure, and Tithe Office.
36 & 37 Vict. c. 42 -	The Tithe Commutation Acts Amendment Act, 1873.
40 & 41 Vict. c. iii. -	The Vicar's Rate in Halifax Act, 1877.
41 & 42 Vict. c. 42 -	An Act to amend and further extend the Acts for the Commutation of Tithes in England and Wales.
42 & 43 Vict. c. clxxvi.	The London (City) Tithes Act, 1879.
44 & 45 Vict. c. cxcvii.	The London (City) Tithes (St. Botolph Without, Aldgate) Act, 1881.
48 & 49 Vict. c. 32 -	The Tithe Rentcharge Redemption Act, 1885.
49 & 50 Vict. c. 54 -	The Extraordinary Tithe Redemption Act, 1886.
51 & 52 Vict. c. lxix.	The St. Botolph Without, Aldgate, Tithe Rate Act, 1888.

Copyhold Acts. Schedule 1.

Session and Chapter.	Title or Short Title.
4 & 5 Vict. c. 35 -	The Copyhold Act, 1841.
6 & 7 Vict. c. 23 -	The Copyhold Act, 1843.
7 & 8 Vict. c. 55 -	The Copyhold Act, 1844.
15 & 16 Vict. c. 51 -	The Copyhold Act, 1852.
21 & 22 Vict. c. 94 -	The Copyhold Act, 1858.
31 & 32 Vict. c. 89 -	An Act to alter certain provisions in the Acts for the Commutation of Tithes, the Copyhold Acts, and the Acts for the Inclosure, Exchange, and Improvement of Land; and to make provision towards defraying the expense of the Copyhold, Inclosure and Tithe Office.
50 & 51 Vict. c. 73 -	The Copyhold Act, 1887.

Inclosure of Commons and Allotments Acts.

Session and Chapter.	Short Title.
8 & 9 Vict. c. 118 -	The Inclosure Act, 1845.
9 & 10 Vict. c. 70 -	The Inclosure Act, 1846.
10 & 11 Vict. c. 111 -	The Inclosure Act, 1847.
11 & 12 Vict. c. 99 -	The Inclosure Act, 1848.
12 & 13 Vict. c. 83 -	The Inclosure Act, 1849.
14 & 15 Vict. c. 53 -	The Inclosure Commissioners Act, 1851.
15 & 16 Vict. c. 79 -	The Inclosure Act, 1852.
17 & 18 Vict. c. 97 -	The Inclosure Act, 1854.
20 & 21 Vict. c. 31 -	The Inclosure Act, 1857.
22 & 23 Vict. c. 43 -	The Inclosure Act, 1859.
31 & 32 Vict. c. 89 -	The Inclosure, &c., Expenses Act, 1868.
36 & 37 Vict. c. 19 -	The Poor Allotments Management Act, 1873.
39 & 40 Vict. c. 56 -	The Commons Act, 1876.
41 & 42 Vict. c. 56 -	The Commons (Expenses) Act, 1878.
42 & 43 Vict. c. 37 -	The Commons Act, 1879.
45 & 46 Vict. c. 15 -	The Commonable Rights Compensation Act, 1882.
50 & 51 Vict. c. 48 -	The Allotments Act, 1887.

Schedule 1.

Metropolitan Commons.

Session and Chapter.	Title or Short Title.
29 & 30 Vict c. 122 -	The Metropolitan Commons Act, 1866.
32 & 33 Vict. c. 107 -	The Metropolitan Commons Amendment Act, 1869.
41 & 42 Vict. c. 71 -	The Metropolitan Commons Act, 1878.

Drainage and Improvement of Land Acts.

Session and Chapter.	Title or Short Title.
9 & 10 Vict. c. 101 -	The Public Money Drainage Act, 1846.
10 & 11 Vict. c. 11 -	The Public Money Drainage Act, 1847.
10 & 11 Vict. c. 38 -	An Act to facilitate the Drainage of Lands in England and Wales.
11 & 12 Vict. c. 119 -	The Public Money Drainage Act, 1848.
13 & 14 Vict. c. 31 -	The Public Money Drainage Act, 1850.
14 & 15 Vict. c. 91 -	The Public Money Drainage Act, 1851.
19 & 20 Vict. c. 9 -	The Public Money Drainage Act, 1856.
24 & 25 Vict. c. 133 -	The Land Drainage Act, 1861.
27 & 28 Vict. c. 114 -	The Improvement of Land Act, 1864.
30 & 31 Vict. c. 101 -	The Public Health (Scotland) Act, 1867.
33 & 34 Vict. c. 56 -	The Limited Owners Residences Act, 1870.
34 & 35 Vict. c. 84 -	The Limited Owners Residences Act (1870) Amendment Act, 1871.
38 & 39 Vict. c. 55 -	The Public Health Act, 1875.
40 & 41 Vict. c. 31 -	The Limited Owners, Reservoirs, and Water Supply Further Facilities Act, 1877.

Other Duties.

Session and Chapter.	Title or Short Title.
12 & 13 Vict. c. xci -	The General Land Drainage and Improvement Company's Act, 1849.
15 & 16 Vict. c. 62 -	An Act to alter and amend certain Acts relating to the Woods, Forests, and Land Revenues of the Crown.
16 & 17 Vict. c. cliv. -	The Lands Improvement Company's Act, 1853.

Session and Chapter.	Title or Short Title.
18 & 19 Vict. c. lxxxiv.	The Lands Improvement Company's Amendment Act, 1855.
19 & 20 Vict. c. lxx. -	The Scottish Drainage and Improvement Company's Act, 1856.
21 & 22 Vict. c. 44 -	The Universities and College Estates Act, 1858.
22 & 23 Vict. c. lxxxii.	The Land Improvement Company's Amendment Act, 1859.
23 & 24 Vict. c. 59 -	The Universities and College Estates Act Extension, 1860.
23 & 24 Vict. c. clxix.	The Land Loan and Enfranchisement Company's Act, 1860.
23 & 24 Vict. c. clxx.	The Scottish Drainage and Improvement Company's Amendment Act, 1860.
26 & 27 Vict. c. cxl. -	The Lands Improvement Company's Amendment Act, 1863.
29 & 30 Vict. c. 70 -	An Act to extend the provisions of the Acts for the Inclosure, Exchange, and Improvement of Land to certain portions of the Forest of Dean called Walmore Common and the Bearce Common, and for authorising Allotments in lieu of the Forestal Rights of Her Majesty in and over such Commons.
31 & 32 Vict. c. 118 -	The Public Schools Act, 1868.
34 & 35 Vict. c. clviii.	The Thames Valley Drainage Act, 1871.
36 & 37 Vict. c. 62 -	The Public Schools (Eton College Property) Act, 1873.
37 & 38 Vict. c. xxii.	The Thames Valley Drainage Act, 1874.
40 & 41 Vict. c. xxxvi.	The Somersetshire Drainage Act, 1877.
40 & 41 Vict. c. 48 -	The Universities of Oxford and Cambridge Act, 1877, and Statutes made thereunder.
43 & 44 Vict. c. 46 -	The Universities and College Estates Amendment Act, 1880.
44 & 45 Vict. c. 41 -	The Conveyancing and Law of Property Act, 1881.
45 & 46 Vict. c. 38 -	The Settled Land Act, 1882.
46 & 47 Vict. c. 61 -	The Agricultural Holdings (England) Act, 1883.
47 & 48 Vict. c. 67 -	The Improvement of Lands (Ecclesiastical Benefices) Act, 1884.
50 & 51 Vict. c. 30 -	The Settled Land Acts (Amendment) Act, 1887.
51 & 52 Vict. c. 20 -	The Glebe Lands Act, 1888.

Schedule 2.

SECOND SCHEDULE.

Section 13.

ENACTMENTS REPEALED.

Session and Chapter.	Title of Act.	Extent of Repeal.
6 & 7 Will. 4, c. 71 -	An Act for the Commutation of Tithes in England and Wales.	Section two.
4 & 5 Vict. c. 35 -	The Copyhold Act, 1841 -	Sections one, two, four, five, seven, eight, and nine.
8 & 9 Vict. c. 118 -	The Inclosure Act, 1845 -	Sections two, six, and eight.
14 & 15 Vict. c. 53 -	The Inclosure Commissioners Act, 1851.	The whole Act, except section nine.
25 & 26 Vict. c. 73 -	An Act for continuing the Copyhold Inclosure and Tithe Commission, and entitling the Commissioners to Superannuation Allowance.	The whole Act so far as unrepealed.
40 & 41 Vict. c. 68 -	The Destructive Insects Act, 1877.	Section six.
41 & 42 Vict. c. 74 -	The Contagious Diseases (Animals) Act, 1878.	Section eight from "the powers by this Act conferred" inclusive to the end of the section, being sub-section two, and section fifty-eight from "any Act of the Privy Council" inclusive to the end of the section, being sub-section six.
45 & 46 Vict. c. 38 -	The Settled Land Act, 1882.	Section forty-eight down to "may require of the three several bodies of commissioners aforesaid," being the end of sub-section five, inclusive.

Preamble.

THE PREVENTION OF CRUELTY TO, AND PROTECTION OF, CHILDREN ACT, 1889.

52 & 53 VICT. CHAP. 44.

An Act for the Prevention of Cruelty to, and better Protection of, Children. [26th August, 1889.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Punishment for ill-treatment and neglect of children.

1. Any person over sixteen years of age who, having the custody, control, or charge of a child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, wilfully ill-treats, neglects, abandons, or exposes such child, or causes or procures such child to be ill-treated, neglected, abandoned, or exposed, in a manner likely to cause such child unnecessary suffering, or injury to its health, shall be guilty of a misdemeanor, and, on conviction thereof on indictment, shall be liable, at the discretion of the court, to a fine not exceeding one hundred pounds, or alternatively, or in default of payment of such fine, or in addition to payment thereof, to imprisonment, with or without hard labour, for any term not exceeding two years, and on conviction thereof by a court of summary jurisdiction, in manner provided by the Summary Jurisdiction Acts, shall be liable, at the discretion of the court, to a fine not exceeding twenty-five pounds, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding three months.

Guardians may direct proceedings under this section, and may pay the costs. See section 12.

Power to increase fine where offender interested in death of child.

2. If it be proved that a person convicted on indictment as aforesaid was interested in any sum of money accruable or payable in the event of the death of the child, and had knowledge that such sum of money was accruing or becoming payable, the court may, in its discretion, increase the amount of the said fine, so that the fine shall not exceed two hundred pounds. Such interest as aforesaid in any sum of money accruable or payable

Section 2. in the event of the death of the child shall be charged in the indictment and put to the jury in the same way, as far as may be, as a previous conviction is now charged and put.

This section only applies when there is a conviction on indictment. The defendant will be arraigned for the offence only. If he is found guilty, he will then be asked whether he had such an interest as is mentioned in the section, and if he answers in the negative, the jury will be charged to inquire whether he had such an interest. See 24 & 25 Vict. c. 96, s. 116.

Restrictions on employment of children.

3. Any person who—

(*a*) Causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, to be in any street for the purpose of begging or receiving alms, or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale, or otherwise; or

(*b*) Causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, to be in any street, or in any premises licensed for the sale of any intoxicating liquor, other than premises licensed according to law for public entertainments, for the purpose of singing, playing, or performing for profit, or offering anything for sale, between ten P.M. and five A.M.; or

(*c*) Causes or procures any child under the age of ten years to be at any time in any street, or in any premises licensed for the sale of any intoxicating liquor, or in premises licensed according to law for public entertainments, or in any circus or other place of public amusement to which the public are admitted by payment for the purpose of singing, playing, or performing for profit, or offering anything for sale,

shall, on conviction thereof by a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts, be liable, at the discretion of the court, to a fine not exceeding twenty-five pounds or alternatively, or in default of payment of the said fine, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding three months.

Provided that any local authority may, if they think it necessary or desirable so to do, from time to time by bye-law extend

Section 3.

or restrict the hours mentioned in sub-section (*b*) of this section, either on every day or on any specified day or days of the week, and either as to the whole of their district or as to any specified area therein.

Provided also that in the case of any entertainment or series of entertainments to take place in premises licensed according to law for public entertainments, or in any circus or other place of public amusement as aforesaid, where it is shown to the satisfaction of a petty sessional court, or in Scotland the school board, that proper provision has been made to secure the health and kind treatment of any children proposed to be employed thereat, it shall be lawful for the said court or school board, anything in this Act notwithstanding, to grant a licence for such time and during such hours of the day, and subject to such restrictions and conditions as it may think fit for any child exceeding seven years of age, of whose fitness to take part in such entertainment or series of entertainments without injury the said court or school board is satisfied, to take part in such entertainment or series of entertainments, and such licence may at any time be varied, added to, or rescinded by the said court or school board upon sufficient cause being shown; and such licence shall be sufficient protection to all persons acting under or in accordance with the same.

A Secretary of State may assign to any inspector appointed, or to be appointed under section sixty-seven of the Factory and Workshop Act, 1878, specially and in addition to any other usual duties, the duty of seeing whether the restrictions and conditions of any licence under this section are duly complied with, and any such inspector shall have the same power to enter, inspect, and examine any place of public entertainment at which the employment of a child is for the time being licensed under this section as an inspector has to enter, inspect, and examine a factory or workshop under section sixty-eight of the same Act.

Nothing in this section shall affect the provisions of the Elementary Education Act, 1876, or the Education (Scotland) Act, 1878. 39 & 40 Vict. c. 79. 41 & 42 Vict. c. 78.

So much of sub-section (*c*) of this section as makes it an offence to cause or procure a child to be in premises licensed according to law for public entertainment, or in any circus or other place of public amusement, for the purpose of singing,

Section 3. playing, or performing for profit, shall not come into operation until the first day of November one thousand eight hundred and eighty-nine.

Guardians cannot apparently direct proceedings under this section. See section 12, *post*.

For the definition of the local authority, see section 17, *post*. In rural districts the guardians are the local authority.

As to the making of bye-laws, see section 13, *post*.

A petty sessional court is a court consisting of two or more justices sitting at a petty sessional court-house. See section 17, *post*.

Section 68 of the Factory and Workshop Act, 1878, provides that an inspector under the Act shall, for the purpose of the execution of the Act, have power to do all or any of the following things, namely, (1) to enter, inspect, and examine, at all reasonable times by day and night, a factory and workshop, and every part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory or workshop; and (2) to take with him in either case a constable into a factory in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty; and (3) to require the production of the registers, certificates, notices, and documents kept in pursuance of this Act, and to inspect, examine, and copy the same; and (4) to make such examination and enquiry as may be necessary to ascertain whether the enactments for the time being in force relating to public health, and the enactments of this Act are complied with, so far as respects the factory or workshop, and the persons employed therein; and (5) to enter any school in which he has reasonable cause to believe that children employed in a factory or workshop are for the time being educated; and (6) to examine, either alone, or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in a factory or workshop, or such a school as aforesaid, or whom he has reasonable cause to believe to be or to have been, within the preceding two months, employed in a factory or workshop, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined; and (7) to exercise such other powers as may be necessary for carrying this Act into effect.

The occupier of every factory and workshop, his agents and servants, shall furnish the means required by an inspector as necessary for an entry, inspection, examination, inquiry, or the exercise of his powers under this Act in relation to such factory and workshop.

Every person who wilfully delays an inspector in the exercise of any power under this section, or who fails to comply with a requisition of an inspector in pursuance of this section, or to produce any certificate or document which he is required by, or in pursuance of this Act, to produce, or who conceals or prevents a child, young person, or woman, from appearing before, or being examined by an inspector, or attempts so to conceal or prevent a child, young person, or woman, shall be deemed to obstruct an inspector in the execution of his duties under this Act: Provided always, that no one shall be required, under this section, to answer any question, or to give any evidence tending to criminate himself.

Where an inspector is obstructed in the execution of his duties under this Act, the person obstructing him shall be liable to a fine not exceeding five pounds; and where an inspector is so obstructed in a factory or workshop, the occupier of that factory or workshop shall be liable to a fine not exceeding five, or, where the offence is committed at night, twenty pounds; and where an inspector is so obstructed in a factory or workshop within the meaning of section sixteen of this Act, the occupier shall be liable to a fine not exceeding one, or where the offence is committed at night, five pounds.

The provisions of the Education Act, 1876, above referred to, are those which relate to the employment of children.

Section 4.

Taking of offender into custody, and protection of child.

4.—(1) Any constable may take into custody without warrant any person who within view of such constable commits an offence under this Act, where the name and residence of such person are unknown to such constable and cannot be ascertained by such constable; and any constable may take to a place of safety any child in respect of whom an offence under section one or sub-section (*a*) of section three of this Act has been committed, and the child may there be detained until it can be brought before a court of summary jurisdiction, and such court may cause the child to be dealt with as circumstances may admit and require until the charge made against any person in respect of the said offence has been determined by the committal for trial, or conviction, or discharge of such person.

See the definition of a "place of safety," in section 17, *post*.

(2) Where a constable arrests any person without warrant in pursuance of this section the inspector or constable in charge of the station to which such person is conveyed shall, unless in his belief the release o such person on bail would tend to defeat the ends of justice, or to cause injury or danger to the child against whom the offence is alleged to have been committed, release the person arrested on his entering into such a recognizance, with or without sureties, as may in his judgment be required to secure the attendance of such person upon the hearing of the charge.

Disposal of child by order of court.

5.—(1) Where a person having the custody or control of a child, being a boy under the age of fourteen or a girl under the age of sixteen years, has been

(*a*) Convicted of committing in respect of such child an offence under section 1 of this Act, or any offence involving bodily injury to the child and punishable with penal servitude; or

(*b*) Committed for trial for any such offence; or

(*c*) Bound over to keep the peace towards such child,

any person may bring such child before a petty sessional court and the court, if satisfied on inquiry that it is expedient so to deal with the child, may order that the child be taken out of the custody of such person and committed to the charge of a relation of the child, or some other fit person named by the court, such relation or other person being willing to undertake such charge until it attains the age of fourteen years, or in the case of a girl sixteen years, or in either case for any shorter period, and may

Section 5.

of his own motion or on the application of any person from time to time renew, vary, and revoke any such order: Provided that no order shall be made under this section unless a parent of the child is under committal for trial for having been, or has been proved to have been, party or privy to the offence, or has been bound over to keep the peace towards such child.

The child may be brought physically before the court, or by legal process as in *Reg.* v. *Moore*, *ante*, p. 63.

(2) Any person to whom a child is so committed shall, whilst the order is in force, have the like control over the child as if he were its parent, and shall be responsible for its maintenance, and the child shall continue under the control of such person, notwithstanding that it is claimed by its parent; and any court having power so to commit a child shall have power to make the like orders on the parent of the child to contribute to its maintenance during such period as aforesaid as if the child were detained under the Industrial Schools Acts, and such orders may be made on the complaint or application of the person to whom the child is for the time being committed, and the sums contributed by the parent shall be paid to such person as the court may name, and be applied for the maintenance of the child. In determining on the person to whom the child shall be so committed, the court shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, if possible, select a person of the same religious persuasion, and such religious persuasion shall be specified in the order; and in any case where the child has been placed pursuant to any such order with a person not of the same religious persuasion as that to which the child belongs, the court shall, on the application of any person in that behalf, and on its appearing that a fit person of the same religious persuasion is willing to undertake the charge, make an order to secure his being placed with a person of the same religious persuasion.

Provided that if the order to commit the child to the charge of some relation or other person be made in respect of any person having been committed for trial for an offence, as specified in sub-section (1) (*b*) of this section, the court shall not be empowered to order the parent of the child to contribute to its maintenance prior to the trial of such person; and if he be acquitted of such charge, or if such charge be dismissed for want of prosecution, then any order that may have been

made under this section shall forthwith be void, except with regard to anything which may have been lawfully done under it. Section 5.

The Industrial Schools Act, 1866, 29 & 30 Vict. c. 118, s. 39, provides that the parent, step-parent, or other person for the time being legally liable to maintain a child detained in a certified industrial school shall, if of sufficient ability, contribute to his maintenance and training therein a sum not exceeding 5*s.* per week. Two justices or a magistrate having jurisdiction at the place where the parent, step-parent, or other person liable as aforesaid resides may examine into his ability and make an order for payment of such weekly sum for a specified time or until further order, and may at any time vary such order. Arrears due under the order are recoverable as a civil debt under the Summary Jurisdiction Act, 1879.

Any person may apply to have the child placed with a person of the same religious persuasion.

(3) One of Her Majesty's Principal Secretaries of State in England, and in Scotland the Secretary for Scotland, and in Ireland the Lord Lieutenant of Ireland may at any time in his discretion discharge a child from the custody of any person to whom it is committed, in pursuance of this section, either absolutely or on such conditions as such Secretary of State, Secretary, or Lord Lieutenant approves, and may, if he shall think fit, from time to time make, alter, or revoke rules in relation to children so committed to any person, and to the duties of such persons with respect to such children.

Power of search.

6.—(1) If it appears to any stipendiary magistrate or to any two justices of the peace, on information made before him or them on oath by any person who, in the opinion of the magistrate or justices, is bonâ fide acting in the interest of any child, that there is reasonable cause to suspect that such child, being a boy under the age of fourteen years, or a girl under the age of sixteen years, has been or is being ill-treated or neglected in any place within the jurisdiction of such magistrate or justices in a manner likely to cause the child unnecessary suffering or to be injurious to its health, such magistrate or justices may issue a warrant authorising any person named therein to search for such child, and if it is found to have been or to be ill-treated or neglected in manner aforesaid, to take it to and detain it in a place of safety until it can be brought before a court of summary jurisdiction; and the court before whom the child is brought may cause it to be dealt with in the manner provided by section four.

Provided always, that the powers hereinbefore conferred on any two justices may be exercised by any one justice, if upon the information it appears to him to be a cause of urgency:

Section 6. Provided also, that in the case of Scotland the jurisdiction hereby conferred on a magistrate or two justices shall be exercised only by a sheriff or sheriff substitute.

The information must be laid on oath before a magistrate or two justices, except in cases of urgency, when one justice may hear the information and issue the warrant.
As to what is a "place of safety," see section 17, *post*.

(2) The magistrate or justices or justice, or in Scotland the sheriff or sheriff substitute, issuing such warrant may by the same warrant cause any person accused of any offence in respect of the child to be apprehended and brought before a justice, and proceedings to be taken for punishing such person according to law.

(3) Any person authorised by warrant under this section to search for any child, and to take it to and detain it in a place of safety, may enter (if need be by force) any house, building, or other place specified in the warrant, and may remove the child therefrom.

(4) Provided always, that every warrant issued under this section shall be addressed to and executed by some superintendent, inspector, or other superior officer of police, who shall be accompanied by the person making the information, if such person so desire, unless the magistrate, justices, or justice otherwise direct, and may also, if the magistrate, justices, or justice so direct, be accompanied by a registered medical practitioner.

Evidence of accused person.

7. In any proceeding against any person for an offence under this Act, such person shall be competent but not compellable, and the wife or husband of such person may be required to attend to give evidence as an ordinary witness in the case, and shall be competent but not compellable to give evidence.

The husband or wife may be compelled to attend, but cannot be compelled to give evidence.

Evidence of child of tender years.

8. Where, in any proceeding against any person for an offence under this Act, the child in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not in the opinion of the court understand the nature of an oath, the evidence of such child may be received, though not given upon oath, if, in the

Section 8.

opinion of the court, such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. And the evidence of such child, though not given on oath or affirmation, but otherwise taken and reduced into writing, in accordance with the provisions of section seventeen of the Indictable Offences Act, 1848, or of section fourteen of the Petty Sessions (Ireland) Act, 1851, shall be deemed to be a deposition within the meaning of those sections:

11 & 12 Vict. c. 42.
14 & 15 Vict. c. 93.

Provided that—

(*a*) A person shall not be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution, is corroborated by some other material evidence in support thereof implicating the accused; and

(*b*) Any child whose evidence is received as aforesaid, and who shall wilfully give false evidence, shall be liable to be indicted and tried for such offence, and on conviction thereof may be adjudged such punishment as is provided for by section eleven of the Summary Jurisdiction Act, 1879, in the case of juvenile offenders.

42 & 43 Vict. c. 49.

A somewhat similar clause is to be found in the Criminal Law Amendment Act, 1885, 48 & 49 Vict. c. 69, s. 4. The provision in the text for the admission of the evidence in case of the child's illness avoids the difficulty which arose under the Act of 1884 in *Reg.* v. *Pruntney*, 16 Cox C. C. 344. The 11 & 12 Vict. c. 42, s. 17, provides that the justices shall "take the statement on oath or affirmation of those who shall know the facts and circumstances of the case, and shall put the same into writing, and such depositions shall be read over to and signed respectively by the witnesses who shall have been so examined, and shall be signed also by the justice or justices taking the same; and the justice or justices before whom any such witness shall appear to be examined as aforesaid shall, before such witness is examined, administer to such witness the usual oath or affirmation which such justice or justices shall have full power and authority to do; and if upon the trial of the person so accused as first aforesaid, it shall be proved, by the oath or affirmation of any credible witness, that any person whose depositions shall have been taken as aforesaid is dead, or so ill as not to be able to travel, and if also it be proved that such deposition was taken in the presence of the person so accused, and that he or his counsel or attorney had a full opportunity of cross-examining the witness, then, if such deposition purport to be signed by the justice by or before whom the same purports to have been taken, it shall be lawful to read such deposition as evidence in such prosecution without further proof thereof unless it shall be proved that such deposition was not in fact signed by the justice purporting to sign the same.

An offence under section 11 of the Summary Jurisdiction Act, 1879, is punishable by fine not exceeding 10*l.* or imprisonment with or without hard labour for a term not exceeding three months, and in addition or substitution for such punishment (in the case of a male) whipping.

Section 9.

Presumption of age of child.

9. Where a person is charged with an offence under this Act in respect of a child who is alleged in the charge or indictment to be under any specified age, and the child appears to the court to be under that age, such child shall for the purposes of this Act be deemed to be under that age, unless the contrary is proved.

Appeal from summary conviction to general or quarter sessions.

10. When, in pursuance of this Act, any person is convicted by a court of summary jurisdiction of an offence, and such person did not plead guilty or admit the truth of the information, or when in the case of any application to the court under section five of this Act, any party thereto thinks himself aggrieved by any order or decision of the court, he may appeal against such conviction, or order, or decision, in England and Ireland to a court of general or quarter sessions, and in Scotland to the High Court of Justiciary in the manner provided by the Summary Prosecutions Appeals (Scotland) Act, 1875, or any Act amending the same.

38 & 39 Vict. c. 62.

The procedure upon appeal will be regulated by the Summary Jurisdiction Act, 1879, section 31, *ante*, p. 34.

Expenses of prosecution.

11. Where a misdemeanor under this Act is tried on indictment, the expenses of the prosecution shall be defrayed in like manner as in the case of a felony.

The expenses of the prosecution in felonies are payable out of the county rates in manner provided by 7 Geo. 4, c. 64; 14 & 15 Vict. c. 55; 29 & 30 Vict. c. 52; 30 & 31 Vict. c. 35.

Guardians may pay costs of proceedings.

12. The guardians of any union or parish, or in Scotland the parochial board of any parish or combination, may, out of the funds under their control, pay the reasonable costs and expenses of any proceedings which they have directed to be taken under this Act in regard to the ill-treatment, neglect, abandonment, or exposure of any child, and, in the case of a union, shall charge such costs and expenses to the common fund.

This section enables the guardians to direct any prosecution under section 1. It may be doubted, having regard to this section, whether they have power to direct a prosecution under section 3.

Provision as to bye-laws.

13. Every bye-law under this Act shall be subject—

38 & 39 Vict. c. 55.

(*a*) In England to section one hundred and eighty-four of the Public Health Act, 1875, as if every local authority in England under this Act were a local authority within the meaning of that section, but with the

substitution of one of Her Majesty's Principal Secretaries of State for the Local Government Board; and Section 13.

(*b*) In Scotland to so much of section sixty-two of the Public Health (Scotland) Act, 1867, as provides for the confirmation of rules and regulations and the proceedings preliminary to confirmation as if such rules and regulations included bye-laws under this Act, and the local authority under this Act were a local authority within the meaning of that section, but with the substitution of the Secretary for Scotland for the Board of Supervision; and 30 & 31 Vict. c. 101.

(*c*) In Ireland to section two hundred and twenty-one of the Public Health (Ireland) Act, 1878, with the substitution of the Lord Lieutenant for the Local Government Board. 41 & 42 Vict. c. 52.

The Public Health Act, 1875, section 184, as here applied requires the local authority to submit any bye-law made by them (see section 3, *ante*) to a Secretary of State for confirmation. No such bye-law can be confirmed unless notice of the intention to apply for confirmation has been published in one or more local newspapers one month at least before the application and a copy has for at least a month been kept at the office of the local authority for public inspection. The clerk of the local authority must on the application of a ratepayer deliver a copy of any proposed bye-law on payment of 6*d.* for every 100 words in such copy.

14. Nothing in this Act contained shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child to administer punishment to such child. Act not to take away right of parent, &c., to administer punishment.

15. Where an offence against this Act is also punishable under any other Act, or at common law, it may be prosecuted and punished either under this Act, or under the other Act, or at common law, so that no person be punished twice for the same offence. Saving for proceedings under other laws.

Some offences under this Act may perhaps be punishable under 24 & 25 Vict. c. 100, s. 27, or the Vagrant Act, 5 Geo. 4, c. 83, s. 3.

16. Sections eight and eleven of this Act shall not apply to Scotland. Ss. 8, 11, not to apply to Scotland.

17. In this Act— Definitions.

The expression "Summary Jurisdiction Acts" means—

(*a*) As regards England, the Summary Jurisdiction (English) Acts; and

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27 & 28 Vict. c. 53. 44 & 45 Vict. c. 33.

(*b*) As regards Scotland, the Summary Jurisdiction (Scotland) Acts, 1864 and 1881, and any Act amending the same; and

(*c*) As regards Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for that district, or of the police for that district; and elsewhere in Ireland, the Petty Sessions (Ireland) Act, 1851, and any Act amending the same.

14 & 15 Vict. c. 93.

The expression "court of summary jurisdiction"—

42 & 43 Vict. c. 49.

(*a*) As regards England, has the same meaning as in the Summary Jurisdiction Act, 1879; and

(*b*) As regards Scotland, means the sheriff or sheriff substitute; and

(*c*) As regards Ireland, means any justice or justices of the peace, police magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to.

The expression "petty sessional court"—

(*a*) As regards England, has the same meaning as in the Summary Jurisdiction Act, 1879;

(*b*) As regards Scotland and Ireland, has the same meaning as the expression court of summary jurisdiction as above defined.

The expression "street" includes any highway or other public place, whether a thoroughfare or not;

The expression "place of safety" includes a workhouse and any place certified by the local authority by bye-law under this Act for the purposes of this Act;

The expression "parent" when used in relation to a child includes guardian and every person who is by law liable to maintain the child;

The expression "committed for trial" means, as regards England or Ireland, committed to prison or admitted to bail in manner provided in the Indictable Offences Act, 1848, or the Petty Sessions (Ireland) Act, 1851.

11 & 12 Vict. c. 42. 14 & 15 Vict. c. 93.

The expression "Industrial Schools Acts" means—

29 & 30 Vict. c. 118.

(*a*) As regards England and Scotland, the Industrial Schools Act, 1866, and the Acts amending the same, or any Act of the present or any future session of Parliament repealing that Act and re-

enacting the provisions thereof with or without modifications, and Section 17.

(*b*) As regards Ireland, the Industrial Schools Act (Ireland), 1868, and the Acts amending the same. 31 & 32 Vict. c. 25.

The expression "local authority" means as regards any borough in England, the council of the borough; as regards the city of London, the common council; as regards the county of London, the county council; and as regards any other place in England, the urban or rural sanitary authority; as regards any burgh in Scotland being either a royal burgh or a burgh returning or contributing to return a member to Parliament, the town council; as regards any police burgh in Scotland, the Commissioners of Police thereof, and as regards any county in Scotland exclusive of any such burgh, the Commissioners of Supply or in their place any other body by any Act of this present session of Parliament entrusted with the administrative business of such county; and as regards Ireland the sanitary authority within the meaning of the Public Health (Ireland) Act, 1878. 41 & 42 Vict. c. 52.

The expression "Lord Lieutenant" includes Lords Justices or other Chief Governor or Governors of Ireland for the time being.

As regards Scotland,—

The expression "misdemeanor" means crime and offence;

The expression "enter into a recognisance with or without sureties" means grant a bond of caution;

The expression "justice of the peace" means sheriff or sheriff substitute;

The expression "workhouse" means poor house.

The persons by law liable to maintain a child (other than the actual parent) include the grandfather and grandmother: 43 Eliz. c. 2, s. 7; and a step-parent: 4 & 5 Will. 4, c. 76, s. 57.
The guardians will be the local authority in a rural sanitary district.

18. Section thirty-seven of the Poor Law Amendment Act, 1868, is hereby repealed. Repeal of 31 & 32 Vict. c. 122, s. 37.

Provided that such repeal shall not affect—

(*a*) Anything duly done or suffered under the enactment hereby repealed; or

(*b*) Any penalty, forfeiture, or punishment incurred under any offence committed against the enactment hereby repealed; or

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(*c*) Any legal proceeding in respect of any such penalty, forfeiture, or punishment;

and any such legal proceeding may be instituted and carried on, and the penalty, forfeiture, or punishment enforced, in like manner as if this Act had not passed.

Short title.

19. This Act may be cited as the Prevention of Cruelty to, and Protection of, Children Act, 1889.

THE POOR LAW ACT, 1889.

52 & 53 VICT. CHAP. 56.

An Act to amend the Law respecting Children in Workhouses, and respecting the borrowing of Money by Guardians and Managers of District Schools, and respecting the Managers of the Metropolitan Asylum District.

[30th August, 1889.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Control of guardians over child deserted by parent.

1.—(1) Where a child is maintained by the guardians of any union and was deserted by its parent, the guardians may at any time resolve that such child shall be under the control of the guardians until it reaches the age, if a boy, of sixteen, and if a girl of eighteen years, and thereupon until the child reaches that age all the powers and rights of such parent in respect of that child shall, subject as in this Act mentioned, vest in the guardians;

Provided that the guardians may rescind such resolution, if they think that it will be for the benefit of the child that it should be rescinded, or may permit such child to be either permanently or temporarily under the control of such parent, or of any other relative, or of any friend.

As to when a child is to be deemed to be maintained by the guardians, see sub-section (3), *infra*. And as to what is to be deemed desertion by a parent, see sub-section (4), *infra*.

The resolution will give to the guardians the right to the custody of the child, even as against the real parent.

The guardianship of a girl under 16 may be taken away from the parent in certain other cases. See the Criminal Law Amendment Act, 1885, 48 & 49 Vict. c. 69, s. 12, and the Protection of Children Act, 1889, 52 & 53 Vict. c. 44, s. 5, *ante*, p. 645.

(2) A court of summary jurisdiction, if satisfied on complaint made by a parent of the child, that the child has not been maintained by the guardians, or was not deserted by such parent, or that it is for the benefit of the child that it should be either permanently or temporarily under the control of such parent, or that the resolution of the guardians should be determined, may make an order accordingly, and any such order shall be complied with by the guardians, and if the order determines the resolution, the resolution shall be thereby determined as from the date of the order, and the guardians shall cease to have the rights and powers of the parent as respects such child.

(3) For the purposes of this Act a child shall be deemed to be maintained by the guardians if it is wholly or partly maintained by them in a workhouse or in any district school, separate school, separate infirmary, sick asylum, hospital for infectious diseases, institution for the deaf, dumb, blind, or idiots, or any certified school under the Act of the session of the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter forty-three, or is boarded out by the guardians, whether within or without the limits of the union.

A summary of the Acts and Orders relating to district schools will be found in *Macmorran and Lushington's Poor Law General Orders*, p. 947. A list of the Orders prescribing regulations for separate workhouse schools and infirmaries will be found in the same work, pp. 271, 272 ; and a list and summary of Sick Asylum District Orders at p. 922.

As to the 25 & 26 Vict. c. 43, see the note to 45 & 46 Vict. c. 58, s. 13, *ante*, p. 185.

(4) Where a parent is imprisoned under a sentence of penal servitude or imprisonment in respect of an offence committed against a child, this section shall apply as if such child had been deserted by that parent.

(5) Nothing in this section shall relieve any person from any liability to contribute to the maintenance of a child, but the fact of such contribution being made shall not deprive the guardians of any of the powers and rights conferred on them by this section.

(6) Nothing in this section shall authorise the guardians to cause a child to be educated in any religious creed other than that in which the child would have been educated but for any resolution of the guardians under this section, nor affect the enactments respecting the religious education of a child main-

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tained by the guardians, or respecting the right of any minister of the same religious persuasion as the child to visit and instruct the child, nor affect any of the enactments specified in the Schedule to this Act, which enactments relate to the religious education of children maintained by guardians.

The Poor Law Amendment Act, 1834, 4 & 5 Will. 4, c. 76, s. 19, provides that no rules, orders, or regulations of the said (Poor Law) Commissioners (Local Government Board), nor any bye-laws at present in force or to be hereafter made, shall oblige any inmate of any workhouse to attend any religious service which may be celebrated in a mode contrary to the religious principles of such inmate, nor shall authorise the education of any child in such workhouse in any religious creed other than that preferred by the parents or surviving parent of such child, or to which such parents or parent shall object, or, in the case of an orphan, to which the godfather or godmother of such orphan shall so object: Provided also that it shall and may be lawful for any licensed minister of the religious pursuasion of any inmate of such workhouse, at all times in the day, on the request of such inmate, to visit such workhouse for the purpose of affording religious assistance to such inmate, and also for the purpose of instructing his children in the principles of their religion. By the Poor Law Amendment Act, 1844, 7 & 8 Vict. c. 101, s. 74, the words "licensed minister" in the above enactment shall be construed to mean and include every person in holy orders, and also every person teaching or preaching in any congregation for religious worship, whose place of meeting is certified and recorded according to law.

The Poor Law Amendment Act, 1868, 31 & 32 Vict. c. 122, s. 16, requires a separate creed register to be kept in every workhouse, and by section 17 directs how the religion of children is to be entered in such register. By section 18 the (Local Government) Board are to decide questions as to the correctness of the register. By section 19, every minister of any denomination officiating in the church, chapel, or other registered place of religious worship, of such denomination as shall be nearest to any workhouse, or any ratepayers of any parish in the union, shall be allowed to inspect the register which contains the entry of the religious creed of the inmates, at any time of any day, except Sunday, between the hours of ten before noon and four after noon. By section 20, such minister may, in accordance with such regulation as the said Board shall approve of, or by their Order prescribe, visit and instruct any inmate of such workhouse entered in such register as belonging to the same religious creed as such minister belongs to, unless such inmate, being above the age of fourteen, and after having been visited at least once by such minister, shall object to be instructed by him. By section 22, no child, being an inmate of a workhouse, who shall be regularly visited by a minister of his own religious creed for the purpose of religious instruction shall, if the parents or surviving parent of such child, or in the case of orphans or deserted children, if such minister make request in writing to that effect, be instructed in any other religious creed, or be required or permitted to attend the service of any other religious creed than that entered in such register as aforesaid, except any child above the age of twelve years, who shall desire to receive instruction in some other creed, or to attend the service of any other religious creed, and who shall be considered by the (Local Government) Board to be competent to exercise a judgment upon the subject. By section 23 of the Education of Pauper Children Act, 1862, 25 & 26 Vict. c. 43, and the Poor Law Amendment Act, 1866, 29 & 30 Vict. c. 113, are made applicable to illegitimate children, and the consent of the mother of every such child, if she has the custody of it, is rendered sufficient for the purposes of these Acts.

See further on this subject the General Orders of 23rd August, 1859, relating to the religious instruction of orphans in workhouses, and 26th November, 1868, as to creed registers, in the *Poor Law General Orders*, p. 125, by Messrs. Macmorran and Lushington.

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Borrowing by guardians and managers of district schools, &c.

2. Whereas it is expedient to simplify and to express in one enactment the purposes and amount for and to which guardians of unions and managers of district schools and asylums have powers to borrow and otherwise to amend those powers: Be it therefore enacted as follows:—

(1) The guardians of any union may, with the sanction of the Local Government Board, borrow for the purpose of raising the expenses incurred, or proposed to be incurred, for any permanent work or object, or any other thing the costs of which ought in the opinion of the Local Government Board to be spread over a term of years.

A summary of the enactments previously in force will be found in the notes to sub-section (6), *infra*.

(2) A loan shall not be of such amount as exceeds, or will make the total debt of the guardians under the Acts relating to the relief of the poor exceed one-fourth of the total annual rateable value of the union.

(3) The Local Government Board may, by Provisional Order, extend the said maximum to double the amount above authorised, and sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875, shall apply to every such Provisional Order in like manner as if they were herein re-enacted and the guardians were a local authority.

The text of sections 297, 298, of the Public Health Act, 1875, has been already set out, *ante*, p. 599.

(4) The unapplied balance of any loan raised by any guardians may, with the consent of the Local Government Board, be applied to any purpose for which a loan can be raised under this Act by such guardians.

(5) This section shall apply to the managers of any school district and to the managers of any asylum district, not being the metropolitan asylum district, in like manner as if they were guardians and this section were in terms made applicable thereto, but with the substitution of one-sixteenth of the annual rateable

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value of the district for one-fourth of the annual rateable value of the union.

See the notes to the next sub-section.

(6) All enactments in the Acts relating to the relief of the poor touching the purposes for which and the amount to which guardians of unions and managers of any school or asylum district to whom this section applies may borrow, shall be repealed without prejudice to anything done thereunder, but every loan under this section shall be made on the like security and be paid off in the like time and manner, and be borrowed and re-borrowed in the like manner as is provided by the enactments in force at the passing of this Act with respect to loans of such guardians and managers.

The following is a short summary of the enactments above referred to. They are repealed so far as they relate to the purposes and amounts of loans, but it may be useful to set them out for purposes of comparison.

The 4 & 5 Will. 4, c. 76, s. 23, provides that the Poor Law Commissioners may, in writing, with the consent of the majority of the guardians of any union, direct the guardians of any parish or union to purchase or hire land for the purpose of building workhouses thereon, or to purchase or hire workhouses or any buildings for the purpose of being used or converted into workhouses. The section also provides that the Commissioners may direct the guardians to enlarge or alter such premises in such manner as they shall direct, or to purchase or hire any additional buildings for the purpose of being used as workhouses, or to acquire land for the purposes of building such additional premises as they shall deem necessary, and authorised the guardians to raise or borrow money for these purposes. The 24th section of the same Act empowered the guardians to charge the future poor rates of the union with the amount of the sums of money borrowed for these purposes, provided that the sum to be raised should in no case exceed the average annual amount of the poor rates raised in the union, for three years, ending at the Easter next preceding the raising of such money; any money borrowed for these purposes, to be repaid by annual instalments of not less than one-tenth of the sum borrowed, with interest on the same, in any one year.

The 6 & 7 Will. 4, c. 107, s. 1, after reciting the 4 & 5 Will. 4, c. 76, s. 24, provided that when any money should have been borrowed by any union it should be lawful for the Exchequer Loan Commissioners, with the consent of the Lords Commissioners of the Treasury, or of three or more of them, or for any private persons, if they should see fit, to extend the repayment of the principal sum borrowed to any period not exceeding twenty years, such period to be calculated from the date of the charge on the poor rates; the section also provided that after the passing of the Act the period for the repayment of any future loan might in like manner be extended, and that not less than one-twentieth of the principal sum, and the interest due in each year upon the whole sum remaining due should be paid off in every year. Section 2 provided that such extension of the period for repayment should not prejudice any securities which had been, or should in future be, taken for any loan, but that such loans should, by virtue of such extension, be repayable at the extended periods in like manner as if such extended periods of repayment had been inserted in such securities, instead of the periods provided by the recited Act, and set forth in such securities.

By 1 & 2 Vict. c. 25, s. 1, it was enacted that the provisions of 6 & 7 Will. 4, c. 70, should be deemed and taken to apply to all loans which had

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been, or should thereafter be, effected or made by any chartered or incorporated company or corporation, to all intents and purposes as if such loan had been made by a private person. Section 2 made provision for the liquidation of loans for the building or enlarging of workhouses, and made it lawful for the guardians of any union, and for the guardians and trustees of any dissolved union, with the approbation of the Poor Law Board, to apply the produce arising from the sale of any workhouses or other property belonging to the union (after deducting reasonable expenses of such sale) in liquidation of any debts or liabilities incurred on behalf of the union, or any parish of the union or dissolved union, notwithstanding that the payment of any such debt could not be legally enforced if the Board should consider the claim to be fair and just.

The 29 & 30 Vict. c. 113, s. 8, repealed part of section 25 of 4 & 5 Will. 4, c. 76, and in lieu thereof provided that the principal sum to be raised for the purposes specified in such section should not exceed one-tenth of the average annual amount of the rates raised for the relief of the poor, in any such union to which such section applies, for the three years ending at the Easter next preceding the raising of such money, and when the guardians should deem it expedient to make any alteration in their workhouse, or any premises attached thereto, at a cost not exceeding five hundred pounds, and the Board gave their consent, it shall not be necessary to have an Order of the Board in order to enable them to execute the same.

The 30 & 31 Vict. c. 106, s. 14, increased the limit of amount to be raised for building workhouses, and provided that instead of the limit of one year's amount of poor rates as prescribed by the Poor Law Amendment Act, 1834, a sum not exceeding two-thirds of the aggregate amount of poor rates raised during the three years therein mentioned, might be raised for that purpose, and where the site was within a municipal borough, or within five miles of its outward boundary, the cost of the site might be added to such sum.

By 31 & 32 Vict. c. 122, s. 35, the time limited for the repayment of loans was extended from twenty to thirty years.

The 32 & 33 Vict. c. 45, s. 4, provided that where any moneys borrowed before the passing of the Act, and since the twenty-fifth day of March, 1862, by the guardians of any union, with the consent of the Poor Law Board, were owing by such guardians on the twenty-ninth day of September, 1869, and where any moneys should be borrowed after the passing of the Act, such moneys, with the interest thereon, should, from and after the latter date, be a charge upon the common fund of the union. Section 5 provided that sums borrowed after the passing of the Act might be repaid in two ways, viz., (1) by thirty equal annual payments of the principal sum borrowed, with the interest on the balance remaining unpaid each year; or (2) by such equal annual payments as, reckoning principal and interest together, would repay the sum borrowed within thirty years. By section 6 the 14 & 15 Vict. c. 105, s. 7, was repealed in respect of any future loan, and the form of security for future loans was prescribed.

The 34 Vict. c. 11, s. 1, provided that boards of guardians who had borrowed money before 31 & 32 Vict. c. 122, should be empowered, with the consent of the Poor Law Board, to extend the time for repayment for such a period as would have elapsed if the loan had been originally granted for a period not exceeding thirty years. This extension might be made either by indorsement on the security executed by them, or by a separate deed. If several loans had been obtained from the same party, and they were redeemed at the same time, the balances might be consolidated, and if a new loan should be obtained, the whole might be repaid within thirty years of the time at which the latest loan was contracted. By section 2 boards of guardians were empowered to borrow money at a lower rate of interest to redeem security at a higher rate. The consent of the person to whom the loan was owing was necessary before such redemption took place in the event of any loan outstanding at the time of the passing of the Act. By section 3 loans might be repaid by half-yearly instead of annual instalments.

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By 35 & 36 Vict. c. 2, s. 1, the limit of expenditure imposed by 14 & 15 Vict. c. 105, s. 16, for building and furnishing district schools in the metropolis, was extended from one-third to two-thirds of the annual average of the expenditure therein referred to. By section 2 the fourteenth section of the Poor Law Amendment Act, 1867, which increased the limit of the amount to be raised for the purpose of building workhouses, was to be deemed to apply to the metropolis. By section 4, persons who had made advances to unions and parishes under certain circumstances beyond the borrowing powers, might be reimbursed by the leave of the Local Government Board.

The 42 & 43 Vict. c. 54, s. 12, *ante*, p. 57, amended the 32 & 33 Vict. c. 45, s. 5, and provided that the fifth section should be construed as if there were substituted for the thirty equal annual payments, and the thirty years therein mentioned, such number of equal annual payments not exceeding thirty, and such number of years not exceeding thirty, as the guardians, with the consent of the Local Government Board, might in each case determine.

The powers of district boards to borrow were contained in 7 & 8 Vict. c. 101, s. 44, and 42 & 43 Vict. c. 54, s. 13. Under the former Act the managers had the borrowing powers of guardians, and might borrow to the extent of one-fifth of the average annual amount of the expenditure relating to the relief of the poor. This limitation of amount was altered by 11 & 12 Vict. c. 88, s. 1; 14 & 15 Vict. c. 105, s. 16; 35 Vict. c. 2, s. 1; and other Acts, but see now sub-section (5), *supra*.

As to borrowing by managers of asylum districts in the metropolis, see 30 Vict. c. 6, s. 17; 31 & 32 Vict. c. 122, s. 35; 32 & 33 Vict. c. 63, s. 9; 47 & 48 Vict. c. 60, s. 2, *ante*, p. 273.

Reception of fever, small pox, and diphtheria patients into asylums in metropolitan district.

3.—(1) The managers of the metropolitan asylum district (herein-after referred to as the asylum managers), subject to such regulations and restrictions as the Local Government Board from time to time make, may admit any person who is not a pauper, and is reasonably believed to be suffering from fever or small pox or diphtheria, into an asylum provided by the managers.

These asylums were provided under 30 Vict. c. 6, s. 5, for the reception of the sick, insane, or infirm, or other class or classes of the poor chargeable in unions and parishes in the metropolis. Under this provision patients may be admitted who are not chargeable.

(2) The expenses incurred by the asylum managers for the maintenance of any such person shall be paid by the guardians of the union from which he is received, and those guardians may recover the amount of those expenses as a simple contract debt from the said person or from any person liable by law to maintain him.

(3) The said expenses, so far as the same are not so recovered by the guardians, shall be repaid to them out of the metropolitan common poor fund.

As to the metropolitan poor fund, its establishment, application, &c., see 30 Vict. c. 6, ss. 61—72; 31 & 32 Vict. c. 122, s. 11; 32 & 33 Vict. c. 63, ss. 18, 21; 33 & 34 Vict. c. 18, ss. 1, 2; 34 & 35 Vict. c. 15; 39 & 40 Vict. c. 61, s. 43; 39 & 40 Vict. c. 79, ss. 10, 16, 40, 43; 42 & 43 Vict. c. 54, ss. 16, 19, *ante*, p. 59.

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(4) After the date of an order of the Local Government Board authorising the asylum managers to receive diphtheria patients into their hospitals, sub-section two of section sixty-nine of the Metropolitan Poor Act, 1867, shall apply as if diphtheria were therein mentioned as well as fever and small pox. 30 & 31 Vict. c. 6.

The 30 Vict. c. 6, s. 69, provides that expenses for certain purposes shall be repaid out of the common poor fund, and these purposes include (2) the maintenance of patients in any asylum specially provided under that Act for patients suffering from fever or small pox. See the Order of 11th October, 1889, *Macmorran and Lushington's Poor Law General Orders*, p. 874.

Use of metropolitan asylums for medical instruction.

4. The asylum managers may, if they think fit, allow the asylums provided by them for fever, small pox, and diphtheria, to be used for purposes of medical instruction, subject to any rules and regulations which the Local Government Board may from time to time make with regard to such use of the said asylums.

Power to purchase land adjoining asylum.

5. The asylum managers shall have full power, with the consent of the Local Government Board, to purchase such land adjacent to an asylum provided by them as is required for the purposes of any such asylum; and for the purpose of such purchase sections one hundred and seventy-six and two hundred and ninety-six to two hundred and ninety-eight, both inclusive, of the Public Health Act, 1875, shall apply as if they were herein re-enacted, and in terms made applicable to the asylum managers and to the purposes of this section. 38 & 39 Vict. c. 55.

The Public Health Act, 1875, s. 176, contains the regulations as to the purchase of lands, and, in particular, as to the compulsory taking of lands, sections 296—298, are set out, *ante*, p. 599.

Use of ambulances provided by asylum managers. 42 & 43 Vict. c. 54.

6. The asylum manngers may allow their carriages to be used for the conveyance of persons suffering from any dangerous infectious disorder to and from hospitals and places other than asylums provided by the asylum managers, and may make reasonable charge for that use.

Ambulances are provided under 42 & 43 Vict. c. 54, s. 16, *ante*, p. 59.

Power to asylum managers to borrow for ambulance stations.

7. The provision by the asylum managers of buildings for the purposes of section sixteen of the Poor Law Act, 1879, shall be a purpose for which the managers are authorised to borrow in pursuance of the Metropolitan Poor Act, 1867, and any Acts altering and amending the same.

See the 42 & 43 Vict. c. 54, s. 16, and the notes thereto, *ante*, p. 59.

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Amendment of 5 & 6 Will. 4, c. 69, s. 3.

8. No consent other than that of the Local Government Board shall be required to the sale or exchange or letting by the board of guardians of any separate parish of any workhouse, tenements, buildings, or land belonging to such parish.

The 5 & 6 Will. 4, c. 69, s. 3, required the consent of a majority of the ratepayers and owners of the parish entitled to vote under and by virtue of 5 & 6 Will. 4, c. 76, s. 40. This consent is no longer necessary.

Application to Ireland.

9. The section of this Act relating to the control of the guardians of a union over a child deserted by its parents, but no other section, shall apply to Ireland, and in such application of the said section to Ireland,—

(*a*) The word "guardians" means the board of guardians of the poor for a union, under the provisions of the Act of the session of the first and second years of the reign of Her present Majesty, chapter fifty-six, intituled "An Act for the more effectual relief of the destitute Poor in Ireland," and the Acts amending the same:

1 & 2 Vict. c. 56.

The word "union" means a union for the relief of the destitute poor under the provisions of the said Acts;

(*b*) A court of summary jurisdiction shall be constituted of two or more justices of the peace in petty sessions, sitting at a place appointed for holding petty sessions, or of some magistrate or officer for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace, and sitting at some court or other place appointed for the administration of justice.

Short title and construction. 42 & 43 Vict. c. 54.

10. This Act may be cited as the Poor Law Act, 1889.

Expressions in this Act when used with reference to England shall have the same meaning as in the Poor Law Act, 1879.

SCHEDULE.

ACTS RELATING TO ENGLAND.

Session and Chapter.	Title or Short Title.	Enactments referred to.
4 & 5 Will. 4, c. 76	Poor Law Amendment Act, 1834.	Section nineteen.
25 & 26 Vict. c. 43	An Act to provide for the education and maintenance of pauper children in certain schools and institutions.	Section nine.
29 & 30 Vict. c. 113	Poor Law Amendment Act of 1866.	Section fourteen.
31 & 32 Vict. c. 122	Poor Law Amendment Act, 1868.	Section sixteen to twenty-three, both inclusive.

ACTS RELATING TO IRELAND.

Session and Chapter.	Title of Act.	Section referred to.
1 & 2 Vict. c. 56 -	An Act for the more effectual relief of the destitute poor in Ireland.	Section forty-nine.
25 & 26 Vict. c. 83-	An Act to amend the laws in force for the relief of the destitute poor in Ireland, and to continue the powers of the Commissioners.	Sections eight and eleven.
39 & 40 Vict. c. 38-	An Act to extend the limits of age up to which, with the assent of boards of guardians, orphans and deserted pauper children may be supported out of workhouses in Ireland.	Section two.

Preamble.

THE LONDON COUNCIL (MONEY) ACT, 1889.

52 & 53 VICT. CHAP. 61.

An Act to further amend the Acts relating to the raising of Money by the London County Council, and for other purposes. [30th August, 1889.]

WHEREAS the London County Council (in this Act referred to as "the Council") require to borrow the amounts hereinafter named within the times hereinafter limited:

51 & 52 Vict. c. 40.

And whereas by the Metropolitan Board of Works (Money) Act, 1888 (in this Act referred to as "the Act of 1888"), the Metropolitan Board of Works (in this Act called "the Board") were empowered to raise certain sums of money for the purposes in the said Act mentioned, and limits of time and amount within which the powers by the said Act granted might be exercised were fixed, and the powers of the Board under the said Act have been transferred to the Council:

And whereas the powers for the raising of money by the Act of 1888 conferred upon the Board and transferred to the Council have been partially exercised, but it is expedient that the Council should have power to raise certain further sums of money specified in the First Schedule to this Act annexed for the purposes, upon the terms, and subject to the limitations hereinafter mentioned, and that the Act of 1888 should be amended:

And whereas it is expedient that the Council should be empowered to apply for the purpose of certain loans by the Council under this Act any money for the time being forming part of the Consolidated Loans Fund and not required for the payments of the dividends on consolidated stock:

And whereas it is expedient that the Council should after the issue of consolidated stock be empowered to pay certain parts of the dividends due thereon out of the money and in the manner by this Act prescribed:

And whereas it is expedient that the Council should be empowered to raise certain of the moneys which they are by this Act authorised to raise, and which it may be convenient to

raise for a temporary period by the issue of bills with the consent of the Treasury for not less than three and not more than twelve months to be repaid out of money raised by the creation of consolidated stock under this Act: Preamble.

And whereas it is expedient that the provisions with respect to unclaimed stock, unclaimed dividends on stock, and unclaimed money applicable to the redemption of stock, contained in the Act of 1885, should be incorporated in this Act:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the London Council (Money), Act, 1889; and the Metropolitan Board of Works (Money) Acts, 1875 to 1888, and this Act may be cited together as the London Council (Money) Acts, 1875 to 1889. Short title.

An Act of a similar character was formerly passed in every year for the Metropolitan Board of Works. The clauses here inserted are the same or nearly the same in every annual bill; they enable the London County Council to lend money to guardians and other bodies for purposes for which they may lawfully borrow.

* * * * * *

8.—(i.) Where a vestry or district board constituted under the Metropolis Management Act, 1855, or any Act amending or extending the same, desire in pursuance of authority vested in them by Act of Parliament to borrow money for any purpose thereby authorised, then from time to time during the year ending the thirty-first day of December, one thousand eight hundred and ninety, the Council may lend to the vestry or district board, and the vestry or district board may borrow from the Council such money as the Council think fit and as the vestry or district board are authorised and desire to borrow, but the total amount of such loans shall not exceed three hundred thousand pounds. Power to lend to vestries, district boards, corporations, commissioners, burial boards, or other public bodies.

(ii.) Where any corporation, commissioners, burial board, or other public body (not being a vestry or district board constituted as aforesaid, a board of guardians, the managers of the Metropolitan Asylum District, or the School Board for London) having power to levy directly or indirectly rates in respect of lands in the metropolis as defined in the Metropolis Management Act, 1855, or to make charges on rates leviable in the

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metropolis as so defined, or to take or charge within the metropolis as so defined dues or impositions in the nature of rates, desire, in pursuance of authority vested in them by Act of Parliament, to borrow money for any purpose thereby authorised, then from time to time during the year ending the thirty-first day of December, one thousand eight hundred and ninety, the Council may lend to the corporation, commissioners, burial board, or other public body, and they may borrow from the Council such money as the Council think fit, and as the corporation, commissioners, burial board, or other public body are authorised and desire to borrow; but the total amount of all such loans shall not exceed one hundred thousand pounds.

18 & 19 Vict. c. 70.

(iii.) Commissioners for public libraries and museums appointed or hereafter to be appointed under the Public Libraries Act, 1855, by the vestry of any parish in the metropolis as defined by the Metropolis Management Act, 1855, are hereby declared to be commissioners duly appointed, notwithstanding that such parish may be a parish in Schedule B. to the last-mentioned Act, and any loan by the Council under this Act to commissioners so appointed, and any security given by such commissioners to the Council shall be deemed in all respects valid and effective, provided the sanction of the vestry and the Local Government Board be given to the borrowing by the commissioners.

(iv.) Money borrowed from and lent by the Council under this section may, notwithstanding anything in any other Act, be made repayable either in one sum or by instalments as the Council and the borrowers shall agree, and in either case shall be repaid to the Council with interest within such time after the borrowing as the borrowers, with the consent of the Local Government Board or the Treasury, as the case may be, where such consent is necessary to the borrowing, and the Council with the approval of the Treasury shall agree: Provided that the time after the borrowing within which such money shall be repaid to the Council shall not exceed in the case of a loan for the purpose of improvements in relation to streets or bridges, or for the purpose of purchase of land in fee simple, sixty years, and for any other purpose thirty years.

Power to lend to boards of guardians. 18 & 19 Vict. c. 120.

9. Where a board of guardians of a union or parish wholly or for the greater part in the metropolis as defined in the Metropolis Management Act, 1855, desire in pursuance of authority vested in them by Act of Parliament to borrow money

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for any purpose thereby authorised, then from time to time during the year ending the thirty-first day of December, one thousand eight hundred and ninety, the Council may lend to the board of guardians, and the board of guardians may borrow from the Council, such money as the Council think fit, and as the board of guardians are authorised and desire to borrow, but the aggregate amount of all such loans shall not exceed two hundred thousand pound.

Money borrowed from and lent by the Council under this section shall, notwithstanding anything in any other Act, be repaid to the Council with interest within such time after the borrowing as the borrowers, with the consent of the Local Government Board, and the Council, with the approval of the Treasury, shall agree, not exceeding thirty years.

Extension of amount of loans to managers of Metropolitan Asylum District.

10. The Council may from time to time during the year ending the thirty-first day of December, one thousand eight hundred and ninety, lend to the managers of the Metropolitan Asylum District, in addition to the sums heretofore authorised to be lent by the Council to the said managers, such sums as the said managers are from time to time authorised by the Local Government Board to borrow in pursuance of any Act for the time being in force, not exceeding in the whole fifty thousand pounds, as though the said sums were included in the amount authorised to be lent for such purposes by section thirty-seven of the Metropolitan Board of Works (Loans) Act, 1869, and the Acts amending the same.

32 & 33 Vict. c. 102.

Power to lend to School Board for London.

11. Where the School Board for London desire, in pursuance of authority vested in them by Act of Parliament, to borrow money for any purpose thereby authorised, then from time to time during the year ending the thirty-first day of December, one thousand eight hundred and ninety, the Council may lend and the School Board may borrow from the Council such money as the Council think fit, and as the School Board are authorised and desire to borrow, not exceeding three hundred and fifty thousand pounds.

Money borrowed from and lent by the Council under this section shall, notwithstanding anything in any other act, be repaid to the Council with interest within such time after the borrowing, not exceeding fifty years, as the School Board, with the sanction (as the case may require) of the Education Depart-

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ment or of one of Her Majesty's principal Secretaries of State, and the Council, with the approval of the Treasury, shall agree.

* * * * *

Protection of Council in case of certain loans.

14. Where, under the authority of this or any other Act, the Council lend any money to any corporation, body of commissioners, public body, or persons, the exercise of whose powers of borrowing is subject to the consent of the Local Government Board, the sanction of that Board to the borrowing of such money shall in every such case be conclusive evidence that such corporation, body of commissioners, public body, or persons had power to borrow such money.

* * * *

THE INTERPRETATION ACT, 1889.

52 & 53 VICT. CHAP. 63.

An Act for consolidating enactments relating to the Construction of Acts of Parliament and for further shortening the Language used in Acts of Parliament.

[30th August, 1889.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Only a few of the clauses of this Act have been included here. These for the most part explain themselves.

* * * * *

Meaning of "county" in past Acts.

4. In every Act passed after the year one thousand eight hundred and fifty and before the commencement of this Act the expression "county" shall, unless the contrary intention appears, be construed as including a county of a city and a county of a town.

As an example of the contrary intention, see the Local Government Act, 1888, section 100, *ante*, p. 604.

Meaning of "parish."

5. In every Act passed after the year one thousand eight hundred and sixty-six, whether before or after the commence-

ment of this Act, the expression "parish" shall, unless the contrary intention appears, mean, as respects England and Wales, a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed. Section 5.

The definition of a parish in 4 & 5 Will. 4, c. 76, s. 109, includes "any parish, city, borough, town, township, liberty, precinct, vill, village, hamlet, tithing, chapelry, or any other place, or division or district of a place maintaining its own poor, whether parochial or extra-parochial." The definition in the text first appeared in 29 & 30 Vict. c. 113, s. 18.

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New General Rules of Construction.

12. In this Act, and in every other Act whether passed before or after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:— Official definitions in past and future Acts.

(1) The expression "the Lord Chancellor" shall, except when used with reference to Ireland only, mean the Lord High Chancellor of Great Britain for the time being, and when used with reference to Ireland only, shall mean the Lord Chancellor of Ireland for the time being.

(2) The expression "the Treasury" shall mean the Lord High Treasurer for the time being or the Commissioners for the time being of Her Majesty's Treasury.

(3) The expression "Secretary of State" shall mean one of Her Majesty's Principal Secretaries of State for the time being.

* * * * *

(5) The expression "the Privy Council" shall, except when used with reference to Ireland only, mean the Lords and others for the time being of Her Majesty's Most Honourable Privy Council, and when used with reference to Ireland only, shall mean the Privy Council of Ireland for the time being.

(6) The expression "the Education Department" shall mean the Lords of the Committee for the time being of the Privy Council appointed for Education.

* * * * *

(14) The expression "Charity Commissioners" shall mean the Charity Commissioners for England and Wales for the time being.

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(15) The expression "Ecclesiastical Commissioners" shall mean the Ecclesiastical Commissioners for England for the time being.

(16) The expression "Queen Anne's Bounty" shall mean the Governors of the Bounty of Queen Anne for the augmentation of the maintenance of the poor clergy.

(17) The expression "National Debt Commissioners" shall mean the Commissioners for the time being for the Reduction of the National Debt.

(18) The expression "the Bank of England" shall mean, as circumstances require, the Governor and Company of the Bank of England or the bank of the Governor and Company of the Bank of England.

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Judicial definitions in past and future Acts.

13. In this Act and in every other Act whether passed before or after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

(1) The expression "Supreme Court," when used with reference to England or Ireland, shall mean the Supreme Court of Judicature in England or Ireland, as the case may be, or either branch thereof.

(2) The expression "Court of Appeal," when used with reference to England or Ireland, shall mean Her Majesty's Court of Appeal in England or Ireland, as the case may be.

(3) The expression "High Court," when used with reference to England or Ireland, shall mean Her Majesty's High Court of Justice in England or Ireland, as the case may be,

(4) The expression "court of assize" shall, as respects England, Wales, and Ireland, mean a court of assize, a court of oyer and terminer, and a court of gaol delivery, or any of them, and shall, as respects England and Wales, include the Central Criminal Court.

(5) The expression "assizes," as respects England, Wales, and Ireland, shall mean the courts of assize usually held in every year, and shall include the sessions of the Central Criminal Court, but shall not include any court of assize held by virtue of any special commission, or, as respects Ireland, any court held by virtue of the powers conferred by section sixty-three of the Supreme Court of Judicature Act (Ireland), 1877.

40 & 41 Vict. c. 57.

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(6) The expression "the Summary Jurisdiction Act, 1848," shall mean the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "an Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders."

(7) The expression "the Summary Jurisdiction (England) Acts" and the expression "the Summary Jurisdiction (English) Acts" shall respectively mean the Summary Jurisdiction Act, 1848, and the Summary Jurisdiction Act, 1879, and any Act, past or future, amending those Acts or either of them.

11 & 12 Vict. c. 43.
42 & 43 Vict. c. 49.

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(10) The expression "the Summary Jurisdiction Acts" when used in relation to England or Wales shall mean the Summary Jurisdiction (England) Acts, and when used in relation to Scotland the Summary Jurisdiction (Scotland) Acts, and when used in relation to Ireland the Summary Jurisdiction (Ireland) Acts.

(11) The expression "court of summary jurisdiction" shall mean any justice or justices of the peace, or other magistrate, by whatever name called, to whom jurisdiction is given by, or who is authorised to act under the Summary Jurisdiction Acts, whether in England, Wales, or Ireland, and whether acting under the Summary Jurisdiction Acts or any of them, or under any other Act, or by virtue of his commission, or under the common law.

This definition replaces section 7 of the Summary Jurisdiction Act, 1884.

(12) The expression "petty sessional court" shall, as respects England or Wales, mean a court of summary jurisdiction consisting of two or more justices when sitting in a petty sessional court-house, and shall include the Lord Mayor of the city of London, and any alderman of that city, and any metropolitan or borough police magistrate or other stipendiary magistrate when sitting in a court-house or place at which he is authorised by law to do alone any act authorised to be done by more than one justice of the peace.

(13) The expression "petty sessional court-house" shall, as respects England or Wales, mean a court-house or other place at which justices are accustomed to assemble for holding special or petty sessions, or which is for the time being appointed as a

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substitute for such a court-house or place, and where the justices are accustomed to assemble for either special or petty sessions at more than one court-house or place in a petty sessional division, shall mean any such court-house or place. The expression shall also include any court-house or place at which the Lord Mayor of the city of London or any alderman of that city, or any metropolitan or borough police magistrate or other stipendiary magistrate is authorised by law to do alone any act authorised to be done by more than one justice of the peace.

These definitions replace sub-sections (3) and (6) of the Summary Jurisdiction Act, 1879.

(14) The expression "court of quarter sessions" shall mean the justices of any county, riding, parts, division, or liberty of a county, or of any county of a city, or county of a town, in general or quarter sessions assembled, and shall include the court of the recorder of a municipal borough having a separate court of quarter sessions.

* * * * *

Meaning of borough.

15. In this Act, and in every Act passed after the commencement of this Act the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

(1) The expression "municipal borough" shall mean, as respects England and Wales, any place for the time being subject to the Municipal Corporations Act, 1882, and any reference to the mayor, aldermen, and burgesses of a borough shall include a reference to the mayor, aldermen, and citizens of a city, and any reference to the powers, duties, liabilities or property of the council of a borough shall be construed as a reference to the powers, duties, liabilities, or property of the mayor, aldermen, and burgesses of the borough acting by the council.

45 & 46 Vict. c. 50.

* * * * *

(3) The expression "parliamentary borough" shall mean any borough, burgh, place or combination of places returning a member or members to serve in Parliament, and not being either a county or division of a county, or a university, or a combination of universities.

(4) The expression "borough" when used in relation to local government shall mean a municipal borough as above defined, and

when used in relation to parliamentary elections or the registration of parliamentary electors shall mean a parliamentary borough as above defined. Section 15.

16. In this Act and in every Act passed after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meaning hereby respectively assigned to them, namely:— Meaning of guardians and union.

(1) The expression "board of guardians" shall, as respects England and Wales, mean a board of guardians elected under the Poor Law Amendment Act, 1834, and the Acts amending the same, and shall include a board of guardians or other body of persons performing under any local Act the like functions to a board of guardians under the Poor Law Amendment Act, 1834. 4 & 5 Will. 4, c. 76.

(2) The expression "poor law union" shall, as respects England and Wales, mean any parish or union of parishes for which there is a separate board of guardians.

In previous Acts these expressions will generally be interpreted as in 4 & 5 Will. 4, c. 76, s. 109.

* * * * *

17. In every Act passed after the commencement of this Act the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:— Definitions relating to elections.

(1) The expression "parliamentary election" shall mean the election of a member or members to serve in Parliament for a county or division of a county, or parliamentary borough or division of a parliamentary borough, or for a university or combination of universities.

(2) The expression "parliamentary register of electors" shall mean a register of persons entitled to vote at any parliamentary election.

(3) The expression "local government register of electors" shall mean as respects an administrative county in England or Wales other than a county borough, the county register, and as respects a county borough or other municipal borough, the burgess roll.

* * * * *

22. In this Act and in every Act passed after the commencement of this Act the expression "financial year" shall, unless Meaning of "financial year" in future Acts.

Section 22. the contrary intention appears, mean as respects any matters relating to the Consolidated Fund or moneys provided by Parliament, or to the Exchequer, or to Imperial taxes or finance, the twelve months ending the thirty-first day of March.

Definition of Lands Clauses Acts.

23. In any Act passed after the commencement of this Act, unless the contrary intention appears,—

The expression "Lands Clauses Acts" shall mean—

8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18. 46 & 47 Vict. c. 15.

(*a*) As respects England and Wales, the Lands Clauses Consolidation Act, 1845, the Lands Clauses Consolidation Acts Amendment Act, 1860, The Lands Clauses Consolidation Act, 1869, and the Lands Clauses (Umpire) Act, 1883, and any Acts for the time being in force amending the same; and

* * * * *

THE PUBLIC HEALTH ACT, 1889.

52 & 53 VICT. CHAP. 64.

An Act to remove doubts as to the Power of the Local Government Board to make Regulations respecting Cholera.

[30th August, 1889.]

29 & 30 Vict. c. 90. 38 & 39 Vict. c. 55.

WHEREAS under section fifty-two of the Sanitary Act, 1866, and section one hundred and thirty of the Public Health Act, 1875, the Local Government Board have power to make regulations with a view to the treatment of persons affected with cholera or any other epidemic, endemic, or infectious disease, and preventing the spread of cholera and such other diseases, both on land and water:

And whereas the Local Government Board, Ireland, have like powers:

And whereas doubts have arisen as to the extent of such powers as respects authorities and vessels, and it is expedient to remove such doubts:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction.

1. This Act may be cited as the Public Health Act, 1889.

Section 1.

This Act, so far as it relates to England, shall be construed as part of section one hundred and thirty of the Public Health Act, 1875, and as regards that part of the county of London to which section fifty-two of the Sanitary Act, 1866, applies, as part of that section.

The Public Health Act, 1875, section 130, provides as follows:—The Local Government Board may from time to time make, alter, and revoke such regulations as to the said Board may seem fit, with a view to the treatment of persons affected with cholera, or any other epidemic endemic, or infectious diseases, and preventing the spread of cholera and such other diseases, as well on the seas, rivers, and waters of the United Kingdom, and on the high seas within *three miles* of the coast thereof, as on land; and may declare by what authority or authorities such regulations shall be enforced and executed. Regulations so made shall be published in the *London Gazette*, and such publication shall be for all purposes conclusive evidence of such regulations.

Any person wilfully neglecting or refusing to obey or carry out or obstructing the execution of any regulation made under this section shall be liable to a penalty not exceeding *fifty pounds*.

The Sanitary Act, 1866, section 52, provides as follows:—Every vessel having on board any person affected with a dangerous or infectious disorder shall be deemed to be within the provisions of the Act of the sixth year of King George the Fourth, chapter seventy-eight, although such vessel has not commenced her voyage, or has come from or is bound for some place in the United Kingdom, and the lords and others of Her Majesty's most honourable Privy Council, or any three or more of them (the Lord President of the Council or one of Her Majesty's principal Secretaries of State being one), may, by orders or rules to be by them from time to time made, make such rules, orders, and regulations as to them shall seem fit, and every such order shall be certified under the hand of the clerk in ordinary of Her Majesty's Privy Council, and shall be published in the *London Gazette*, and such publication shall be conclusive evidence of such order to all intents and purposes: and such order shall be binding and carried into effect as soon as the same shall have been so published, or at such other times as shall be fixed by such orders, with a view to the treatment of persons affected with cholera and epidemic, endemic, and contagious diseases, and preventing the spread of cholera and such other diseases as well on the seas, rivers, and waters of the United Kingdom, and on the high seas within three miles of the coast thereof, as on land; and to declare and determine by what nuisance authority or authorities such orders, rules, and regulations shall be enforced and executed: and any expenses incurred by any such nuisance authority or authorities shall be deemed to be expenses incurred by it or them in carrying into effect the Nuisances Removal Acts.

Explanation of powers of Local Government Board to make regulations under 38 & 39 Vict. c. 55, s. 130, and 29 & 30 Vict. c. 90, s. 52.

2. Regulations of the Local Government Board made in relation to cholera and choleraic diarrhœa in pursuance of section one hundred and thirty of the Public Health Act, 1875, or of section fifty-two of the Sanitary Act, 1866, may provide for such regulations being enforced and executed by the officers of Customs as well as by other authorities and officers, and without prejudice to the generality of the powers conferred by the said sections may provide for the detention of vessels and of persons on board vessels, and for the duties to be performed by pilots, masters of vessels, and other persons on board vessels;

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(2) Provided that the regulations, so far as they apply to the officers of Customs, shall be subject to the consent of the Commissioners of Her Majesty's Customs;

(3) The officers of Customs, for the purpose of the execution of any powers and duties under the said regulations, may exercise any powers conferred on such officers by any other Act.

Application to Ireland.

3. In this Act so far as it applies to Ireland—

(*a*) References to section one hundred and thirty of the Public Health Act, 1875, shall be read and construed as references to section one hundred and forty-eight of the Public Health (Ireland) Act, 1878;

41 & 42 Vict. c. 52.

(*b*) The expression "Local Government Board" shall mean the Local Government Board for Ireland.

THE PUBLIC BODIES CORRUPT PRACTICES ACT, 1889.

52 & 53 VICT. CHAP. 69.

An Act for the more effectual Prevention and Punishment of Bribery and Corruption of and by Members, Officers, or Servants of Corporations, Councils, Boards, Commissions, or other Public Bodies. [30th August, 1889.]

WHEREAS it is expedient more effectually to provide for the prevention and punishment of bribery and corruption of and by members, officers, or servants of corporations, councils, boards, commissions, and other public bodies:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Corruption in office a misdemeanor.

1.—(1) Every person who shall by himself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive, for himself, or for any other person, any gift, loan, fee, reward, or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body as in this Act defined, doing or forbearing to do anything in respect of any matter or

transaction whatsoever, actual or proposed, in which the said public body is concerned, shall be guilty of a misdemeanor. Section 1.

For the definition of a public body, see section 7, *post*.

(2) Every person who shall by himself or by or in conjunction with any other person corruptly give, promise, or offer any gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer, or servant of any public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body as aforesaid is concerned, shall be guilty of a misdemeanor.

Penalty for offences.

2. Any person on conviction for offending as aforesaid shall, at the discretion of the court before which he is convicted,—

(*a*) Be liable to be imprisoned for any period not exceeding two years, with or without hard labour, or to pay a fine not exceeding five hundred pounds, or to both such imprisonment and such fine; and

(*b*) In addition be liable to be ordered to pay to such body, and in such manner as the court directs, the amount or value of any gift, loan, fee, or reward received by him or any part thereof; and

(*c*) Be liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of his conviction, and to forfeit any such office held by him at the time of his conviction; and

(*d*) In the event of a second conviction for a like offence he shall, in addition to the foregoing penalties, be liable to be adjudged to be for ever incapable of holding any public office, and to be incapable for seven years of being registered as an elector, or voting at an election either of members to serve in Parliament or of members of any public body, and the enactments for preventing the voting and registration of persons declared by reason of corrupt practices to be incapable of voting shall apply to a person adjudged in pursuance of this section to be incapable of voting; and

(*e*) If such person is an officer or servant in the employ of any public body upon such conviction he shall, at the

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discretion of the court, be liable to forfeit his right and claim to any compensation or pension to which he would otherwise have been entitled.

For the definition of public office, see section 7, *post*.
The enactments for preventing the voting and registration of persons guilty of corrupt practices are contained in the Corrupt Practices Act, 1883, 46 & 47 Vict. c. 51, ss. 36—39, and in the Municipal Elections (Corrupt Practices) Act, 1884, 47 & 48 Vict. c. 70, ss. 22—24, *ante*, p. 306.

Savings.

3.—(1) Where an offence under this Act is also punishable under any other enactment, or at common law, such offence may be prosecuted and punished either under this Act, or under the other enactment, or at common law, but so that no person shall be punished twice for the same offence.

(2) A person shall not be exempt from punishment under this Act by reason of invalidity of the appointment or election of a person to a public office.

Restriction on prosecution.

4.—(1) A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Attorney-General.

(2) In this section the expression "Attorney-General" means the Attorney or Solicitor-General for England, and as respects Scotland means the Lord Advocate, and as respects Ireland means the Attorney or Solicitor-General for Ireland.

Expenses of prosecution.

5. The expenses of the prosecution of an offence against this Act shall be defrayed in like manner as in the case of a felony.

Jurisdiction of quarter sessions.

6. A court of general or quarter sessions shall in England have jurisdiction to inquire of, hear, and determine an offence under this Act.

Interpretation.

7. In this Act—

The expression "public body" means any council of a county or county of a city or town, any council of a municipal borough, also any board, commissioners, select vestry, or other body which has power to act under and for the purposes of any Act relating to local government, or the public health, or to poor law, or otherwise to administer money raised by rates in pursuance of any public general Act, but does not include any public body as above defined existing elsewhere than in the United Kingdom:

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The expression "public office" means any office or employment of a person as a member, officer, or servant of such public body:

The expression "person" includes a body of persons, corporate or unincorporate:

The expression "advantage" includes any office or dignity, and any forbearance to demand any money or money's worth or valuable thing, and includes any aid, vote, consent, or influence, or pretended aid, vote, consent, or influence, and also includes any promise or procurement of or agreement or endeavour to procure, or the holding out of any expectation of any gift, loan, fee, reward, or advantage, as before defined.

The definition of a "public body" will include guardians, rural sanitary authorities, school boards, burial boards, &c.

Application of Act to Scotland.

8. In the application of this Act to Scotland the sheriff and sheriff substitute shall have jurisdiction to try any offence under this Act; and

The expression "misdemeanor" shall mean "crime and offence;" and

The expression "municipal borough" shall mean any "burgh."

50 & 51 Vict. c. 20, not to apply to trial under Act.

9. The provisions of the Criminal Law and Procedure (Ireland) Act, 1887, shall not apply to any trial under the provisions of this Act.

Short title.

10. This Act may be cited as the Public Bodies Corrupt Practices Act, 1889.

THE INFECTIOUS DISEASE (NOTIFICATION) ACT, 1889.

52 & 53 VICT. CHAP. 72.

An Act to provide for the Notification of Infectious Disease to Local Authorities. [30th August, 1889.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Section 1.

Short title.

1. This Act may be cited as the Infectious Disease (Notification) Act, 1889.

Extent of Act.

2. This Act shall extend—

(*a*) To every London district after the expiration of two months from the passing of this Act, and

(*b*) To any urban, rural, or port sanitary district after the adoption thereof.

The Act will apply, therefore, to rural sanitary districts in which the guardians are the sanitary authority.

Notification of infectious disease.

3.—(1) Where an inmate of any building used for human habitation within a district to which this Act extends is suffering from an infectious disease to which this Act applies, then, unless such building is a hospital in which persons suffering from an infectious disease are received, the following provisions shall have effect, that is to say:—

(*a*) The head of the family to which such inmate (in this Act referred to as the patient) belongs, and in his default the nearest relatives of the patient present in the building or being in attendance on the patient, and in default of such relatives every person in charge of or in attendance on the patient, and in default of any such person the occupier of the building shall, as soon as he becomes aware that the patient is suffering from an infectious disease to which this Act applies, send notice thereof to the medical officer of health of the district:

(*b*) Every medical practitioner attending on or called in to visit the patient shall forthwith, on becoming aware that the patient is suffering from an infectious disease to which this Act applies, send to the medical officer of health for the district a certificate stating the name of the patient, the situation of the building, and the infectious disease from which, in the opinion of such medical practitioner, the patient is suffering.

(2) Every person required by this section to give a notice or certificate who fails to give the same, shall be liable on summary conviction in manner provided by the Summary Jurisdiction Acts to a fine not exceeding forty shillings;

Provided that if a person is not required to give notice in the first instance, but only in default of some other person, he shall

not be liable to any fine if he satisfies the court that he had reasonable cause to suppose that the notice had been duly given. Section 3.

As to the infectious diseases to which the Act applies, see section 6, *post*.

The persons upon whom the obligation imposed by this section is laid are (1) the head of the family; (2) the nearest relatives in the building; (3) the persons in charge of the patient; (4) the occupier of the building. A notice by one of these persons avails for all enumerated later in the foregoing Order, but apparently not for any enumerated earlier: see the proviso to sub-section (2), *infra*.

As to forms and case of several medical practitioners.

4.—(1) The Local Government Board may from time to time prescribe forms for the purpose of certificates under this Act, and any forms so prescribed shall be used in all cases to which they apply.

(2) The local authority shall gratuitously supply forms of certificate to any medical practitioner residing or practising in their district who applies for the same, and shall pay to every medical practitioner for each certificate duly sent by him in accordance with this Act a fee of two shillings and sixpence if the case occurs in his private practice, and of one shilling if the case occurs in his practice as medical officer of any public body or institution.

(3) Where in any district of a local authority there are two or more medical officers of health of such authority a certificate under this Act shall be given to such one of those officers as has charge of the area in which is the patient referred to in the certificate, or to such other of those officers as the local authority may from time to time direct.

Adoption of Act in urban or rural district.

5.—(1) The local authority of any urban, rural, or port sanitary district may adopt this Act by a resolution passed at a meeting of such authority; and fourteen clear days at least before such meeting special notice of the meeting, and of the intention to propose such resolution, shall be given to every member of the local authority, and the notice shall be deemed to have been duly given to a member if it is either:

(*a*) Given in the mode in which notices to attend meetings of the local authority are usually given, or

(*b*) Where there is no such mode, then signed by the clerk of the local authority and delivered to the member or left at his usual or last known place of abode in England,

Section 5.

or forwarded by post in a prepaid letter addressed to the member at his usual or last known place of abode in England.

The procedure for adoption of the Act is as follows:—(1) Notice of the meeting and of the proposed resolution must be given to each member fourteen days at least before the meeting; (2) A resolution adopting the Act must be passed at such meeting by a majority.

Notices to guardians to attend meetings are given or sent by the clerk or left at the guardians' place of abode: see the General Consolidated Order, 24th July, 1847, Art. 35.

(2) A resolution adopting this Act shall be published by advertisement in a local newspaper, and by handbills, and otherwise in such manner as the local authority think sufficient for giving notice thereof to all persons interested, and shall come into operation at such time, not less than one month after the first publication of the advertisement of the resolution as the local authority may fix, and upon its coming into operation this Act shall extend to the district.

(3) A copy of the resolution shall be sent to the Local Government Board when it is published.

Definition of infectious disease.

6. In this Act the expression "infectious disease to which this Act applies" means any of the following diseases, namely, small pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names, typhus, typhoid, enteric, relapsing, continued, or puerperal, and includes as respects any particular district any infectious disease to which this Act has been applied by the local authority of the district in manner provided by this Act.

Power to local authority to extend definition of infectious disease.

7.—(1) The local authority of any district to which this Act extends may, from time to time, by a resolution passed at a meeting of such authority where the like special notice of the meeting and of the intention to propose the resolution has been given as is required in the case of a meeting held for adopting this Act, order that this Act shall apply in their district to any infectious disease other than a disease specifically mentioned in this Act.

(2) Any such order may be permanent or temporary, and, if temporary, the period during which it is to continue in force shall be specified therein, and any such order may be revoked or varied by the local authority which made the same.

(3) An order under this section and the revocation and variation of any such order shall not be of any validity until approved by the Local Government Board.

(4) When it is so approved, the local authority shall give public notice thereof by advertisement in a local newspaper and by handbills, and otherwise in such manner as the local authority think sufficient for giving information to all persons interested. They shall also send a copy thereof to each registered medical practitioner whom, after due inquiry, they ascertain to be residing or practising in their district.

(5) The said order shall come into operation at such date not earlier than one week after the publication of the first advertisement of the approved order as the local authority may fix, and upon such order coming into operation, and during the continuance thereof, an infectious disease mentioned in such order shall, within the district of the authority, be an infectious disease to which this Act applies.

(6) In the case of emergency three clear days' notice under this section shall be sufficient, and the resolution shall declare the cause of such emergency and shall be for a temporary order, and a copy thereof shall be forthwith sent to the Local Government Board and advertised, and the order shall come into operation at the expiration of one week from the date of such advertisement, but unless approved by the Local Government Board shall cease to be in force at the expiration of one month after it is passed, or any earlier date fixed by the Local Government Board.

(7) The approval of the Local Government Board shall be conclusive evidence that the case was one of emergency.

As to the special notice and resolution, see section 5, *supra:* see subsection (6) as to the procedure in cases of emergency.

Notices and certificates.

8.—(1) A notice or certificate for the purposes of this Act shall be in writing or print, or partly in writing and partly in print; and for the purposes of this Act the expression "print" includes any mechanical mode of reproducing words.

(2) A notice or certificate to be sent to a medical officer of health in pursuance of this Act may be sent by being delivered to the officer or being left at his office or residence, or may be sent by post addressed to him at his office or at his residence.

Section 9. Expenses.

9. Any expenses incurred by a local authority in the execution of this Act shall be paid as part of the expenses of such authority in the execution of the Acts relating to public health and in the case of a rural authority shall be general expenses.

General expenses are paid out of the poor rates: see the Public Health Act, 1875, s. 229.

Repayment of expenses in London as expenses of managers of asylum district.

10. Where a medical officer of health receives in pursuance of this Act a certificate of a medical practitioner relating to a patient within the metropolitan asylum district, he shall within twelve hours after such receipt forward a copy thereof to the managers of that district, and those managers shall repay to the local authority the amounts paid by that authority in respect of those certificates of which copies have been sent to the managers as required by this section, and shall repay those amounts out of the fund out of which the general expenses of the managers are paid. The managers shall sendly weekly to the London County Council such return of the infectious diseases of which they receive certificates in pursuance of this Act as the London County Council from time to time require.

As to the metropolitan asylum district, see the Order of 15th May, 1867, *Macmorran and Lushington's Poor Law General Orders*, p. 855. As to the general expenses of the managers, see 30 Vict. c. 6, ss. 31, 32.

Non-disqualification of medical officer by receipt of fees.

11. A payment made to any medical practitioner in pursuance of this Act shall not disqualify that practitioner for serving as member of the council of any county or borough, or as member of a sanitary authority, or as guardian of a union, or in any municipal or parochial office.

Where a medical practitioner attending on a patient is himself the medical officer of health of the district, he shall be entitled to the fee to which he would be entitled if he were not such medical officer.

Application of Act to Woolwich. 18 & 19 Vict. c. 120.

12. This Act shall apply to the Local Board of Woolwich in like manner as if it were a vestry under the Metropolis Management Act, 1855, and that board shall appoint and pay a medical officer of health, and all enactments relating to medical officers of health within the administrative county of London shall apply to the medical officer of health of Woolwich.

Application of Act to vessels, tents, &c.

13.—(1) The provisions of this Act shall apply to every ship, vessel, boat, tent, van, shed, or similar structure used for human

habitation, in like manner as nearly as may be as if it were a building. Section 13.

(2) A ship, vessel, or boat, lying in any river, harbour, or other water not within the district of any local authority within the meaning of this Act shall be deemed for the purposes of this Act to be within the district of such local authority as may be fixed by the Local Government Board, and where no local authority has been fixed, then of the local authority of the district which nearest adjoins the place where such ship, vessel, or boat is lying.

(3) This section shall not apply to any ship, vessel, or boat belonging to any foreign Government.

14. Where this Act is put in force in any district in which there is a local Act for the like purpose as this Act, the enactments of such local Act, so far as they relate to that purpose, shall cease to be in operation. Saving for local Act.

15. Nothing in this Act shall extend to any building, ship, vessel, boat, tent, van, shed, or similar structure belonging to Her Majesty the Queen, or to any inmate thereof. Exemption of Crown buildings.

16. In this Act— Definitions.

The expression "local authority" means each of the following authorities; that is to say,—

(*a*) The Commissioners of Sewers in the City of London;

(*b*) The vestry, under the Metropolis Management Act, 1855, of a parish in Schedule A., and the district board of a district in Schedule B. to the Metropolis Management Act, 1855, as amended by the Metropolis Management Amendment Act, 1885, and the Metropolis Management (Battersea and Westminster) Act, 1887; 18 & 19 Vict. c. 120. 48 & 49 Vict. c. 33. 50 & 51 Vict. c. 17.

(*c*) An urban or rural sanitary authority in England within the meaning of the Public Health Acts; and

(*d*) The port sanitary authority of any port sanitary district in England.

The expression "London district" means the City of London or the parish or district mentioned in Schedule A. or Schedule B. of the Metropolis Management Act, 1855, for which a local authority is elected:

Section 16.

The expression "urban or rural district" means the district for which any such urban or rural sanitary authority is elected:

The expression "port sanitary district" means the port sanitary district of London and any port or part of a port for which a port sanitary authority has been constituted under the Public Health Acts, and any such port sanitary district shall form no part, for the purposes of this Act, of any urban or rural district:

The expression "occupier" includes a person having the charge, management, or control of a building, or of the part of a building in which the patient is, and in the case of a house the whole of which is let out in separate tenements, or in the case of a lodging-house the whole of which is let to lodgers, the person receiving the rent payable by the tenants or lodgers either as his own account or as the agent of another person, and in the case of a ship, vessel, or boat, the master or other person in charge thereof.

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THE LUNACY ACT, 1890.

53 VICT. CHAP. 5.

An Act to consolidate certain of the Enactments respecting Lunatics. [29th March, 1890.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. This Act may be cited as the Lunacy Act, 1890.

This Act repeals and consolidates nearly all preceding statutes relating to lunatics. It is included here only in so far as it relates to pauper lunatics. A treatise upon this Act by S. G. Lushington, Esq., has recently been published by Shaw and Sons to which the reader is referred for such information as may be beyond the scope of the present volume.

Extent of Act.

2. Save as in this Act otherwise expressly provided, this Act shall not extend to Scotland or Ireland.

3. This Act shall come into operation, save as in this Act otherwise expressly provided, on the first day of May one thousand eight hundred and ninety. Section 3. Commencement.

* * * * *

The Judicial Authority defined.

9.—(1) The powers of the judicial authority under this Act shall be exercised by a justice of the peace specially appointed as hereinafter provided, or a judge of county courts, or magistrate having respectively jurisdiction in the place where the lunatic is. Judicial authority defined.

The provisions as to the special appointment of justices are contained in section 10. "Magistrate" means a stipendiary magistrate. See section 341, *post*.

(2) Every judicial authority shall, in the exercise of the jurisdiction conferred by this Act, have the same jurisdiction and power as regards the summoning and examination of witnesses, the administration of oaths, and otherwise, as if he were acting in the exercise of his ordinary jurisdiction, and shall be assisted, if he so requires, by the same officers as if he were so acting, and their assistance under this Act shall be considered in fixing their remuneration.

This will give to justices' clerks a claim to additional remuneration.

(3) A judge of county courts and magistrate shall not be required to exercise any powers under this Act so as to interfere with or delay the exercise of his ordinary jurisdiction.

10.—(1) The justices of every county and quarter sessions borough, shall annually appoint out of their own body as many fit and proper persons as they may deem necessary to exercise within the county and borough respectively, the powers conferred by this Act upon the judicial authority. In making such appointments the justices of every county shall have regard to the convenience of the inhabitants of each petty sessional division thereof. Appointment of justices to make reception orders.

(2) The annual appointments under this section shall be made by justices of a county at their Michaelmas quarter sessions, and by justices of a borough at special sessions to be held in the month of October.

It is to be inferred from sub-section (6) that the special sessions in a borough will be convened by the justices' clerk.

Section 10.

(3) If in any year such appointments are not made, it shall be lawful for the Lord Chancellor, by writing under his hand, to make the same; and if, on any representation made to him that the number of justices so appointed for any county or borough is at any time insufficient, the Lord Chancellor is satisfied that such representation is well founded, he shall have power to appoint, by writing under his hand, any other justices of such county or borough to act, until the next Michaelmas quarter or special sessions, with the justices so appointed.

(4) If in the case of a borough or place not having a separate quarter sessions, representation is made to the Lord Chancellor that public inconvenience is likely to result, unless power is given to the justices of such borough or place to exercise within the same the powers conferred by this Act upon the judicial authority, it shall be lawful for the Lord Chancellor, from time to time, with or without a fresh representation, to appoint, by writing under his hand, one or more of the justices of such borough or place to exercise within the same during such time as the Lord Chancellor thinks fit the powers aforesaid, together with any other specially appointed justices acting therein.

(5) In the case of the death, absence, inability, or refusal to act of any justice appointed under this section, the justices of the county or borough, or the Lord Chancellor, as the case may be, may appoint a justice to act in his place. Such appointment may be made by justices of a county at any quarter sessions, and by justices of a borough at special sessions to be held at the same time as any quarter sessions.

(6) All appointments of justices under this section shall be recorded by the clerk of the peace of the county or borough, or in the case of a borough or place not having a separate quarter sessions, by the clerk to the justices, and it shall be the duty of every such clerk to publish the names of the justices so appointed in each petty sessional division of the county and otherwise for the information of all persons interested. In the case of quarter sessions boroughs, the clerk to the justices making the appointment shall forthwith notify the same to the clerk of the peace of the borough.

* * * * *

Summary Reception Orders.

Lunatics not under proper care and control or

13.—(1) Every constable, relieving officer, and overseer of a parish, who has knowledge that any person within the district or parish of the constable, relieving officer, or overseer, who is

not a pauper and not wandering at large, is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, shall within three days after obtaining such knowledge give information thereof upon oath to a justice being a judicial authority under this Act. Section 13. cruelly treated or neglected.

This applies to lunatics not being paupers who are (1) not under proper care or control, or (2) cruelly treated or neglected. But such persons may be sent to an asylum as paupers under section 18, *post*.
The justice must be a judical authority as defined by section 9, *ante*.

(2) Any such justice upon the information on oath of any person whomsoever, that a person within the limits of his jurisdiction, not a pauper and not wandering at large, is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected as aforesaid, may himself visit the alleged lunatic, and shall, whether making such visit or not, direct and authorise any two medical practitioners whom he thinks fit to visit and examine the alleged lunatic and to certify their opinion as to his mental state, and the justice shall proceed in the same manner so far as possible, and have as to the alleged lunatic the same powers, as if a petition for a reception order had been presented by the person by whom the information with regard to the alleged lunatic has been sworn.

The justice may visit the lunatic, but whether he does so or not he must cause the lunatic to be examined by two medical practitioners.

(3) If upon the certificates of the medical practitioners who examine the alleged lunatic, or after such other and further inquiry as the justice thinks necessary, he is satisfied that the alleged lunatic is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, the justice may, by order direct the lunatic to be received and detained in any institution for lunatics to which, if a pauper, he might be sent under this Act, and the constable, relieving officer, or overseer upon whose information the order has been made, or any constable whom the justice may require so to do, shall forthwith convey the lunatic to the institution named in the order.

14.—(1) Every medical officer of a union who has knowledge that a pauper resident within the district of the officer is or is deemed to be a lunatic and a proper person to be sent Notice to be given of pauper lunatic who

Section 14. ought to be sent to an asylum.

to an asylum, shall, within three days after obtaining such knowledge, give notice thereof in writing to the relieving officer of the district, or, if there is no such officer, to an overseer of the parish where the pauper resides.

(2) Every relieving officer and every overseer of a parish of which there is no relieving officer, who respectively have knowledge, either by notice from a medical officer or otherwise, that any pauper resident within the district or parish of the relieving officer or overseer is deemed to be a lunatic, shall, within three days after obtaining such knowledge, give notice thereof to a justice having jurisdiction in the place where the pauper resides.

(3) A justice, upon receiving such notice, shall by order require the relieving officer or overseer giving the notice, to bring the alleged lunatic before him or some other justice having jurisdiction in the place where the pauper resides at such time and place within three days from the time of the notice to the justice as shall be appointed by the order.

The justice need not be a judicial authority.

Lunatic wandering at large to be brought before a justice.

15.—(1) Every constable and relieving officer and every overseer of a parish who has knowledge that any person (whether a pauper or not) wandering at large within the district or parish of the constable, relieving officer, or overseer is deemed to be a lunatic, shall immediately apprehend and take the alleged lunatic, or cause him to be apprehended and taken, before a justice.

The justice need not be a judicial authority.

(2) Any justice, upon the information upon oath of any person that a person wandering at large within the limits of his jurisdiction is deemed to be a lunatic, may by order require a constable, relieving officer, or overseer of the district or parish where the alleged lunatic is, to apprehend him, and bring him before the justice making the order, or any justice having jurisdiction where the alleged lunatic is.

Lunatic brought before a justice may be sent to an institution for lunatics.

16. The justice before whom a pauper alleged to be a lunatic or an alleged lunatic wandering at large is brought under this Act shall call in a medical practitioner, and shall examine the alleged lunatic, and make such inquiries as he thinks advisable, and if upon such examination or other proof the justice is satisfied in the first-mentioned case that the alleged lunatic is a lunatic and a proper person to be detained, and, in the secondly-mentioned case, that the alleged lunatic is a lunatic, and was

wandering at large, and is a proper person to be detained, and if in each of the foregoing cases the medical practitioner who has been called in signs a medical certificate with regard to the lunatic, the justice may by order direct the lunatic to be received and detained in the institution for lunatics named in the order, and the relieving officer, overseer, or constable who brought the lunatic before the justice, or in the case of a lunatic wandering at large, any constable who may by the justice be required so to do, shall forthwith convey the lunatic to such institution. Section 16. Form 8. Form 12.

The justice need not be a judicial authority.

17. Where, under this Act, notice has been given to, or an information upon oath laid before a justice that a pauper resident within the limits of his jurisdiction is deemed to be a lunatic, and a proper person to be sent to an asylum, or that a person, whether a pauper or not, wandering at large within the limits aforesaid, is deemed to be a lunatic, such justice may examine the alleged lunatic at his own house or elsewhere, and may proceed in all respects as if the alleged lunatic had been brought before him. Power to examine alleged lunatic at his own abode or elsewhere.

The reference here is to a notice under section 14 or an information under section 15.

18. A justice shall not sign an order for the reception of a person as a pauper lunatic into an institution for lunatics, or workhouse, unless he is satisfied that the alleged pauper is either in receipt of relief, or in such circumstances as to require relief for his proper care. If it appears by the order that the justice is so satisfied, the lunatic shall be deemed to be a pauper chargeable to the union, county, or borough properly liable for his relief. A person who is visited by a medical officer of the union, at the expense of the union, is, for the purposes of this section, to be deemed to be in receipt of relief. When lunatic may be treated as a pauper.

A pauper is defined by section 341 to mean a person who is chargeable. But under this section a lunatic may be sent as a pauper though not previously chargeable.

19.—(1) A justice making an order for the reception of a lunatic otherwise than upon petition, in this Act called a "summary reception order," may suspend the execution of the order for such period not exceeding fourteen days as he thinks fit, and in the meantime may give such directions or make such arrangements for the proper care and control of the lunatic as he considers proper. Suspension of removal under reception order.

(2) If a medical practitioner who examines a lunatic as to whom a summary reception order has been made, certifies in

Section 19.

writing that the lunatic is not in a fit state to be removed, the removal shall be suspended until the same or some other medical practitioner certifies in writing that the lunatic is fit to be removed, and every medical practitioner who has certified that the lunatic is not in a fit state to be removed shall, as soon as in his judgment the lunatic is in a fit state to be removed, be bound to certify accordingly.

Removal of lunatic to workhouse in urgent cases.

20. If a constable, relieving officer, or overseer is satisfied that it is necessary for the public safety or the welfare of an alleged lunatic with regard to whom it is his duty to take any proceedings under this Act, that the alleged lunatic should, before any such proceedings can be taken, be placed under care and control, the constable, relieving officer, or overseer may remove the alleged lunatic to the workhouse of the union in which the alleged lunatic is, and the master of the workhouse shall, unless there is no proper accommodation in the workhouse for the alleged lunatic, receive and relieve, and detain the alleged lunatic therein, but no person shall be so detained for more than three days, and before the expiration of that time the constable, relieving officer, or overseer shall take such proceedings with regard to the alleged lunatic as are required by this Act.

This section and the next one contains in substance the repealed provisions of 48 & 49 Vict. c. 52. The lunatics here referred to are those mentioned in sections 13, 14, and 15, *i.e.*, lunatics not under control or cruelly treated or wandering, whether paupers or not, and all pauper lunatics.

Temporary removal of lunatic to workhouse under order of justice.

21.—(1) In any case where a summary reception order might be made, any justice, if satisfied that it is expedient for the welfare of the lunatic, or for the public safety, that the lunatic should forthwith be placed under care and control, and if it appears to him that there is proper accommodation for the lunatic in the workhouse of the union in which the lunatic is, may make an order for taking the lunatic to and receiving him in that workhouse.

Summary reception orders may be made under sections 13 and 16. Any justice may make this order.

(2) In any case where a summary reception order has been made, an order under this section may be made to provide for the detention of the lunatic until he can be removed.

(3) An order under this section shall not authorise the detention of a lunatic in a workhouse for more than fourteen days, after which period such detention shall not be lawful, except in accordance with the provisions of this Act as to the detention of lunatics in workhouses.

(4) An order under this section may be made by any justice having jurisdiction in the place where the lunatic is. Section 21.

22. In the case of a lunatic as to whom a summary reception order may be made nothing in this Act shall prevent a relation or friend from retaining or taking the lunatic under his own care if a justice having jurisdiction to make the order, or the visitors of the asylum in which the lunatic is or is intended to be placed, shall be satisfied that proper care will be taken of the lunatic. Power to allow a relation or friend to take charge of a lunatic.

Reception Order by two Commissioners.

23.—(1) Any two or more Commissioners may visit a pauper lunatic or alleged lunatic not in an institution for lunatics, or workhouse, and may, if they think fit, call in a medical practitioner. Commissioners may send pauper lunatic to an institution for lunatics.

(2) If the medical practitioner signs a medical certificate with regard to the lunatic, and the Commissioners are satisfied that the pauper is a lunatic and a proper person to be detained, they may by order direct the lunatic to be received in an institution for lunatics, and the relieving officer of the district or any constable who may by them be required so to do shall forthwith convey the lunatic to such institution. Form 8.

Lunatics in Workhouses.

24.—(1) Except in the cases mentioned in this Act, no person shall be allowed to remain in a workhouse as a lunatic unless the medical officer of the workhouse certifies in writing— Lunatics in workhouses.

(*a*) That such person is a lunatic, with the grounds for the opinion; and Form 10.

(*b*) That he is a proper person to be allowed to remain in a workhouse as a lunatic; and

(*c*) That the accommodation in the workhouse is sufficient for his proper care and treatment, separate from the inmates of the workhouse not lunatics, unless the medical officer certifies that the lunatic's condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate.

(2) A certificate under this section shall be sufficient authority for detaining the lunatic therein named against his will in the workhouse for fourteen days from its date.

Section 24.

(3) No lunatic shall be detained against his will or allowed to remain in a workhouse for more than fourteen days from the date of a certificate under this section without an order under the hand of a justice having jurisdiction in the place where the workhouse is situate.

Form 11.

(4) The order in the last preceding sub-section mentioned may be made upon the application of a relieving officer of the union to which the workhouse belongs, supported by a medical certificate under the hand of a medical practitioner, not being an officer of the workhouse, and by the certificate under the hand of the medical officer of the workhouse hereinbefore mentioned.

Forms 8, 10.

(5) The guardians of the union to which the workhouse belongs shall pay such reasonable remuneration as they think fit to the medical practitioner who, not being an officer of the workhouse, examines a person for the purpose of a certificate under this section.

(6) If, in the case of a lunatic being in a workhouse, the medical officer thereof does not sign such certificate as in sub-section one of this section mentioned, or if at or before the expiration of fourteen days from the date of the certificate an order is not made under the hand of a justice for the detention of the lunatic in the workhouse, or, if after such an order has been made, the lunatic ceases to be a proper person to be detained in a workhouse, the medical officer of the workhouse shall forthwith give notice in writing to a relieving officer of the union to which the workhouse belongs that a pauper in the workhouse is a lunatic and a proper person to be sent to an asylum, and thereupon the like proceedings shall be taken by the relieving officer and all other persons for the purpose of removing the lunatic to an asylum, and within the same time, as by this Act provided in the case of a pauper deemed to be a lunatic and a proper person to be sent to an asylum, and, pending such proceedings, the lunatic may be detained in the workhouse.

The relieving officer must proceed as in sections 14 and 16.

30 & 31 Vict. c. 6.

(7) In the case of a lunatic in an asylum provided for reception and relief of the insane under the Metropolitan Poor Act, 1867, notices to be given to and proceedings to be taken by a relieving officer shall be given to and taken by one of the officers of the asylum to be nominated for the purpose by the managers of the asylum district.

(8) As regards every pauper in a workhouse at the date of the commencement of this Act, as to whom a certificate has been signed under section twenty of the Lunacy Acts Amendments Act, 1862, no certificate or order of a justice under this section shall be required. Section 24. 25 & 26 Vict. c. 111.

The 25 & 26 Vict. c. 111, s. 20, provided that no lunatic should be detained in a workhouse unless certified by the medical officer of the workhouse to be a proper person to be kept there, nor unless the accommodation was sufficient for his reception. Certificates given under this section are to remain in force.

Power to send discharged pauper not recovered to a workhouse.

25. Where a pauper lunatic is discharged from an institution for lunatics, and the medical officer of the institution is of opinion that the lunatic has not recovered and is a proper person to be kept in a workhouse as a lunatic, the medical officer shall certify such opinion, and the lunatic may thereupon be received and detained against his will in a workhouse without further order if the medical officer of the workhouse certifies in writing that the accommodation in the workhouse is sufficient for the lunatic's proper care and treatment, separate from the inmates of the workhouse not lunatics, or that the lunatic's condition is such that it is not necessary for the convenience of the lunatic, or of the other inmates, that he should be kept separate.

Chronic lunatics may be received in workhouses in certain cases.

26.—(1) The visitors of any asylum may, with the consent of the Local Government Board and the Commissioners, and subject to such regulations as they respectively prescribe, make arrangements with the guardians of any union for the reception into the workhouse of any chronic lunatics, not being dangerous, who are in the asylum and have been selected and certified by the manager of the asylum as proper to be removed to the workhouse.

(2) Every lunatic received in a workhouse under this section shall, while he remains there, continue a patient on the books of the asylum for the purposes of this Act so far as it relates to lunatics removed to asylums.

Institutions in which Lunatics may be received.

Institutions to which lunatics may be removed.

27.—(1) Subject to the restrictions in this section mentioned, every summary reception order, and every reception order made by two or more Commissioners, may authorise the reception of the lunatic named in the order not only into an

Section 27. asylum of the county or borough in which the place from which the lunatic is sent is situate, but also into any other institution for lunatics.

(2) A lunatic shall not under any such order be sent elsewhere than to an asylum of the county or borough in which the place from which he is sent is situate, unless there is no such asylum, or there is a deficiency of room, or there are some special circumstances by reason whereof the lunatic cannot conveniently be taken to such asylum, and the deficiency of room or special circumstances shall be stated in the order.

(3) A pauper lunatic shall not be received under an order into any asylum other than an asylum belonging wholly or in part to the county or borough in which the place from which the lunatic is sent or the parish in which he is adjudged to be settled is situate, unless there is a subsisting contract for the reception of lunatics of such county or borough therein, or such borough otherwise contributes to the asylum into which the pauper is to be received, except the order is endorsed by a visitor of that asylum.

(4) The manager of a hospital or licensed house shall not be bound to receive any lunatic under any such order except in pursuance of a subsisting contract.

Requirements of Reception Orders and Medical Certificates.

Medical certificates.

28.—(1) Every medical certificate under this Act shall be made and signed by a medical practitioner.

(2) Every medical certificate upon which a reception order is founded shall state the facts upon which the certifying medical practitioner has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others; and a reception order shall not be made upon a certificate founded only upon facts communicated by others.

(3) The medical certificate accompanying an urgeny order shall contain a statement that it is expedient for the welfare of the alleged lunatic or for the public safety that he should be forthwith placed under care and treatment, with the reasons for such statement.

Form 9.

(4) Every medical certificate made under and for the purposes of this Act shall be evidence of the facts therein appearing and

of the judgment therein stated to have been formed by the certifying medical practitioners on such facts, as if the matters therein appearing had been verified on oath. Section 28.

29.—(1) A reception order shall not be made unless the medical practitioner who signs the medical certificate, or where two certificates are required, each medical practitioner who signs a certificate, has personally examined the alleged lunatic in the case of an order upon petition not more than seven clear days before the date of the presentation of the petition, and in all other cases not more than seven clear days before the date of the order. Time and manner of medical examination of lunatic.

(2) Where two medical certificates are required, a reception order shall not be made unless each medical practitioner signing a certificate has examined the alleged lunatic separately from the other.

(3) In the case of an urgency order, the lunatic shall not be received under the order unless it appears by the medical certificate accompanying the order that the certifying medical practitioner has personally examined the alleged lunatic not more than two clear days before his reception.

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32.—(1) No person shall be received or detained as a lunatic in any institution for lunatics, or as a single patient, where any certificate accompanying the reception order has been signed by any of the following persons: Patients not to be received under certificates by interested persons.

(*a*) The manager of the institution or the person who is to have charge of the single patient:

(*b*) Any person interested in the payments on account of the patient:

(*c*) Any regular medical attendant in the institution:

(*d*) The husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, or the partner or assistant of any of the foregoing persons.

(2) Neither of the persons signing the medical certificates in support of a petition for a reception order shall be the father or father-in-law, mother or mother-in-law, son or son-in-law,

Section 32.

daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, or the partner or assistant, of the other of them.

(3) No person shall be received as a lunatic in a hospital under an order made on the application of, or under a certificate signed by, a member of the managing committee of the hospital.

Commissioners and visitors not to sign certificates.

33. A medical practitioner who is a Commissioner or a visitor shall not sign any certificate for the reception of a patient into a hospital or licensed house, unless he is directed to visit the patient by a judicial authority under this Act, or by the Lord Chancellor, or a Secretary of State, or a committee appointed by the Judge in Lunacy.

Amendment of orders and certificates.

34.—(1) If an order or certificate for the reception of a lunatic is, after such reception, found to be in any respect incorrect or defective, such order or certificate may, within fourteen days next after such reception, be amended by the person who signed the same. No amendment shall be allowed unless the same receives the sanction of the Commissioners, or of some one of them, and (in the case of a private patient) the consent of the judicial authority by whom the order for the reception of the lunatic may have been signed.

(2) If the Commissioners deem any such certificate to be incorrect or defective, they may, by a direction in writing, addressed to the manager of the institution for lunatics, or to the person having the charge of a single patient, require the same to be amended by the person who signed the same, and if the same be not duly amended to their satisfaction within fourteen days next after the reception of the patient, the Commissioners, or any two of them, may, if they think fit, make an order for the patient's discharge.

(3) Every order and certificate amended under this section shall take effect as if the amendment had been contained therein when it was signed.

Authority for reception.

35.—(1) A reception order, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner or any person authorised by him, or in the case of an order not made upon petition for the person authorised so to do by the person making the order, to take the lunatic and convey him to the place mentioned in such order and for his reception

and detention therein, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order. Section 35.

(2) In the case of a reception order made upon petition the order, together with the petition, statement of particulars, and medical certificates upon which the order was made, shall be delivered or sent by post to the person on whose petition the order was made, and shall by him or his agent be delivered to the manager of the institution for lunatics in which, or to the person by whom, the lunatic is to be received.

Fresh order and certificates not to be required in certain cases.

36.—(1) Where a reception order has been made, and the execution of the order has been suspended, or the lunatic named in the order has been temporarily taken to a workhouse under the provisions of this Act, he may be received in the institution for lunatics named in the order at any time within fourteen days after the date of the reception order.

As to the suspension of the order, see section 19, *ante*. As to the temporary detention in the workhouse, see sections 20, 21.

(2) If the removal of the lunatic has been suspended by reason of a medical certificate that the lunatic is not in a fit state for removal, the lunatic may be received in the institution for lunatics named in the order within three days after the date of a medical certificate that the lunatic is in a fit state to be removed.

(3) In all other cases a reception order shall cease to be of any force unless the lunatic has been received thereunder before the expiration of seven clear days from its date.

Order and certificate to remain in force in certain cases.

37.—(1) An order for the reception of a patient as a pauper shall extend to authorise his detention though it may afterwards appear that he is entitled to be classified as a private patient, and an order required for the reception of a private patient shall authorise his detention although it may afterwards appear that he ought to be classified as a pauper patient.

(2) If a patient is removed temporarily under the provisions of this Act from the place in which he is confined, or is transferred from one place of confinement to another, the original order and certificate or certificates upon which he was received shall remain in force,

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Section 54.

Book to be kept in Workhouse.

Book to be kept in workhouse.

54.—(1) The visiting guardians of every union shall, once at least in each quarter, enter in a book to be provided and kept by the master of the workhouse, such observations as they may think fit to make respecting the diet, accommodation, and treatment of the lunatics or alleged lunatics in the workhouse.

(2) Such book shall be laid by the master before the Commissioner or Commissioners at his or their next visit.

Absence on Trial or for Health.

Absence on trial or for health.

55.—(1) Any two visitors of an asylum, with the advice in writing of the medical officer, may permit a patient in the asylum to be absent on trial so long as they think fit.

(2) The visitors may make an allowance to a pauper lunatic absent from the asylum on trial, not exceeding the charge in the asylum, and that allowance, and no more, shall be paid for him as if he were in the asylum.

The guardians will apparently pay the usual amount for the maintenance of the lunatic, and the whole or part of that sum may be allowed to the lunatic while he is out on trial.

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(6) A Commissioner as regards a hospital or licensed house, and two members of the managing committee of a hospital, and two of the visitors of a house licensed by visitors, may, of their own authority, permit a pauper patient to be absent upon trial for such period as may be thought proper, and may make or order to be made an allowance to the pauper, not exceeding the charge for him in the hospital or house, which shall be payable as if he were in the hospital or house, but shall be paid over to him or for his benefit as the Commissioners or visitors may direct.

(7) The medical officer of a hospital or licensed house may, of his own authority, permit any patient to be absent from the hospital or house for a period not exceeding forty-eight hours.

(8) If a person allowed to be absent on trial for any period does not return at the expiration thereof, and a medical certificate certifying that his detention as a lunatic is no longer necessary is not sent to the visitors of the asylum or the manager of the hospital or house, he may at any time within fourteen days after the expiration of the period of trial be retaken as in the case of an escape.

Boarding-out Lunatics.

Section 57.

Maintenance for pauper lunatic taken charge of by relatives.

57.—(1) Where application is made to the visiting committee of an asylum by any relative or friend of a pauper lunatic confined therein that he may be delivered over to the custody of such relative or friend, the committee may, upon being satisfied that the application has been approved by the guardians of the union to which the lunatic is chargeable or the local authority liable for his maintenance, and, in case the proposed residence is outside the limits of such union or the area subject to such local authority, then also by a justice having jurisdiction in the place where the relative or friend resides, and that the lunatic will be properly taken care of, order the lunatic to be delivered over accordingly.

(2) Where any such order is made, the authority liable for the maintenance of the lunatic shall pay to the person to whom the lunatic is delivered such allowance for the maintenance of the lunatic, not exceeding the expenses which would be incurred on his account if he were in the asylum, as such authority on the recommendation of the visiting committee of the asylum from which the lunatic was delivered over thinks proper.

(3) For the purposes of section twenty-four, sub-section (2) (f), of the Local Government Act, 1888, a lunatic boarded-out by the authorities of any asylum shall be deemed to be a lunatic maintained in an asylum.

51 & 52 Vict. c. 41.

Section 24 (2), of the Local Government Act, 1888, provides for payments to guardians of a certain sum out of the Exchequer Contribution Account for every pauper lunatic maintained by them in an asylum.

Removal of Lunatics.

Removal of private patient by person authorised to discharge the patient.

58. A person having authority to order the discharge of a private patient from an institution for lunatics, or of any single patient, may, with the previous consent in writing of a Commissioner, by order in writing direct the removal of the patient to any institution for lunatics or to the charge of any person named in the order.

Removal of lunatics by Commissioners.

59.—(1) Any two Commissioners may by order direct the removal of a lunatic from an institution for lunatics to any other institution for lunatics.

(2) Upon the death of a person having charge of a single patient, the Commissioners may, upon the application of the person having authority to discharge the patient, or if he does

Section 59.

not apply within seven days after the death, upon their own motion, direct the patient to be removed to the charge of a person named in the order.

(3) Any two Commissioners may at any time by order direct the removal of a lunatic from the charge of any person under whose care he is as a single patient, to the charge of any other person or to any institution for lunatics.

Removal of lunatic from workhouse by Commissioners.

60.—(1) Where, upon the visitation of a workhouse by any two or more Commissioners, it appears to them that a lunatic or alleged lunatic therein is not a proper person to be allowed to remain in a workhouse, they may by order direct the lunatic to be removed to an institution for lunatics, and every such order shall have the same effect as a summary reception order.

For the effect of a summary reception order see section 13, *ante*, p. 688.

(2) The guardians of the union to which the workhouse belongs may appeal against an order under this section within one month from the making thereof to a Secretary of State, who shall thereupon employ a Commissioner, not being one of the Commissioners who made the order, or some other person, to make a special visitation of the workhouse and to report to him upon the matter, and the decision of the Secretary of State upon such report shall be conclusive.

Removal of lunatic in a hospital or licensed house by guardians.

61.—(1) The authority liable for the maintenance of a pauper lunatic detained in a hospital or licensed house may make an order for the removal of the lunatic, and may direct the mode of removal.

The guardians will generally be the authority capable of removing a lunatic under this section.

(2) Upon production to the manager of the hospital or house of a copy of the order he shall forthwith remove the patient or suffer him to be removed.

Removal from workhouse by guardians.

62. The guardians of the union to which a workhouse belongs may make an order for the removal of any lunatic detained therein.

Removal of lunatic boarded-out into asylum.

63. Where the visiting committee of an asylum has made an order for a pauper lunatic in the asylum to be delivered to the custody of a relative or friend, any two members of the com-

mittee may at any time, if they think fit, order the lunatic to be removed to the asylum. Section 63.

As to the order of the visiting committee, see section 57, *ante*, p. 701.

Removal of pauper into county asylum.

64. Any two visitors of an asylum may order a pauper lunatic chargeable to any union within any county or borough to which the asylum wholly or in part belongs, or to such county or to any county for the reception of the pauper lunatics whereof into that asylum there is a subsisting contract, to be removed to that asylum from any other institution for lunatics in which he may be detained.

Removal of pauper from asylum.

65.—(1) Any two visitors of an asylum may order a pauper lunatic in the asylum to be removed to some other institution for lunatics.

(2) A lunatic shall not be removed under this section without the consent in writing of two Commissioners, except to—

(*a*) An asylum within or belonging wholly or in part to the county within which the asylum from which the lunatic is removed is situate, or to the county in some parish of which the lunatic may have been adjudged to be settled; or

(*b*) A hospital or licensed house within any such county as aforesaid; or

(*c*) An institution for lunatics into which the lunatic can be received under a subsisting contract.

Directions as to execution of order for removal.

66. The visitors making an order for the removal of a pauper lunatic may by the order require any relieving officer, or other officer of the union, county, or borough to which the lunatic is chargeable, or may authorise any other person, to execute the same.

Restriction upon removal of paupers by two visitors.

67. A pauper lunatic shall not be removed under any order for removal made by two visitors without a medical certificate signed by the medical officer of the institution for lunatics from which the patient is to be removed, certifying that he is in a fit condition of bodily health to be removed.

Removal of lunatic from workhouse by a justice.

68. Where a union is in more than one county, and the workhouse of the union is in one county, and the place from which a lunatic was sent to the workhouse is in another county, an order may be made by a justice for the county in which the workhouse is, or a justice for the county from which the lunatic

Section 68.

was sent, for the removal of the lunatic either to the asylum of the county in which the workhouse is or to the asylum of the county from which the lunatic was sent, and such latter order may be made notwithstanding that there may be an asylum of the county in which the workhouse is, and there may not be a deficiency of room or any other special circumstances by reason whereof the lunatic cannot conveniently be taken to that asylum.

Restriction as to institution to which pauper may be removed.

69. Except under the provisions of the preceding section a pauper lunatic shall not be removed under an order of removal to any institution for lunatics into which he could not have been received under a reception order.

Removal orders to be in duplicate.

70.—(1) Every order for the removal of a lunatic from an institution for lunatics or from the charge of any person and the consent of the Commissioners thereto, where required, shall be in duplicate. One duplicate shall be delivered to the manager of the institution for lunatics or the person from whose care the lunatic is removed, and the other to the manager of the institution for lunatics, or the person into whose care the lunatic is removed.

(2) Every such order, with such consent as aforesaid where required, shall be sufficient authority for the removal and reception of the lunatic, in accordance with the order.

(3) The manager of the institution from which, or the person from whose care the lunatic is removed under any such order, shall deliver, free of expense, a copy of the reception order and documents accompanying the same to the person executing the order for removal, to be by him delivered to the manager of the institution into which or the person into whose care the lunatic is removed.

(4) Every such copy shall be certified under the hand of the person whose duty it is to deliver the same.

Removal of alien to his native country.

71.—(1) Where an alien is detained as a lunatic, and his family or friends desire that he should be removed to the country of which he is a subject, the Commissioners, upon application by any member of the family or by a friend of the alien, may inquire into the circumstances of the case and report thereon to a Secretary of State.

(2) A Secretary of State, if satisfied by such report that the person to whom the report relates is an alien and a lunatic, and

that his removal is likely to be for his benefit, and that proper arrangements have been made for such removal and for his subsequent care and treatment, may, by warrant, direct the alien to be delivered to the person named in the warrant for the purpose of removal to the country of which he is a subject, and every such warrant shall be obeyed by the person or authority under whose charge the lunatic is. Section 71.

(3) A warrant under this section shall be sufficient authority for the master of any vessel to receive and detain the lunatic on board the vessel, and to convey him to his destination.

Discharge of Lunatics.

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73. The authority liable for the maintenance of a pauper lunatic detained in a hospital or licensed house may make an order for the discharge of the lunatic, and may direct the mode of discharge, and upon production to the manager of the hospital or house of a copy of the order he shall forthwith discharge the patient, or suffer him to be discharged. Discharge of pauper in hospital or house.

If the pauper is chargeable to a union the guardians may direct his discharge under this section. But see section 74, *infra*.

74. A patient shall not be discharged under the provisions of the two preceding sections if the medical officer of the institution, or, in the case of a single patient, his medical attendant, certifies in writing that the patient is dangerous and unfit to be at large, together with the grounds on which the certificate is founded, unless two of the visitors of the asylum, or the Commissioners visiting the hospital or house, or the visitors of the house, or in the case of a single patient, one of the Commissioners, after the certificate has been produced, consent in writing to the patient's discharge. Restriction on discharge.

75. Two of the Commissioners, one of whom shall be a medical and the other a legal Commissioner, may visit a patient detained in any hospital or licensed house, or as a single patient, and may, within seven days after their visit, if the patient appears to them to be detained without sufficient cause, make an order for his discharge. Discharge by Commissioners of patients in hospital or licensed house, and of single patients.

76.—(1) The Commissioners when they have made any order of discharge shall forthwith serve the same upon the manager Notice of order of discharge.

Section 76. of the institution for lunatics where the patient is detained, or upon the person having charge of the patient as a single patient, and shall give notice of such order,—

(*a*) In the case of a private patient, to the person on whose petition the reception order was made or who made the last payment on account of the patient:

(*b*) In the case of a pauper, to the authority liable for his maintenance.

(2) Any person who has been duly served with any such order of discharge and detains a patient after the date of discharge appointed thereby shall be guilty of a misdemeanor.

Visitors may discharge patients in asylums.

77.—(1) Any three visitors of an asylum may order the discharge of any person detained therein whether he is recovered or not.

(2) Any two such visitors, with the advice in writing of the medical officer, may order the discharge of any person detained in the asylum.

Discharge by visitors of lunatics in licensed houses.

78.—(1) If after two visits by two visitors to a house licensed by justices, it appears to the visitors that any patient is detained without sufficient cause, the visitors may make such order as they think fit for his discharge.

(2) In the case of visits under this section, one of the visitors shall be a medical practitioner.

(3) The two visits shall be made by the same visitors at an interval of not less than seven days.

(4) Seven days' notice of the second visit shall be given either by post or by an entry in the patients book to the manager of the house, who shall forthwith send by post a copy of the notice, in the case of a private patient to the person on whose petition the reception order was made, or by whom the last payment on account of the lunatic was made, and in the case of a pauper to the authority liable for his maintenance, and also to the clerk of the visitors of the house.

(5) The visitors before making an order under this section shall examine the medical officer of the house as to his opinion respecting the fitness of the patient to be discharged, if he tenders himself for examination.

(6) If after such examination an order for discharge is made, and the medical officer furnishes to the visitors a statement of

his reasons against the discharge, they shall forthwith send the statement to the clerk of the visitors. Section 78.

(7) This section shall not apply to a lunatic so found by inquisition.

(8) Every order under this section shall be signed by the visitors by whom it is made.

Discharge of pauper on application of relative or friend.

79. When application is made to the visiting committee of an asylum by a relative or friend of a pauper lunatic confined therein, requiring that he may be delivered over to the custody and care of such relative or friend, any two of the visitors may, if they think fit, discharge the lunatic upon the undertaking of the relative or friend, to their satisfaction, that the lunatic shall be no longer chargeable to any union, county, or borough, and shall be properly taken care of and prevented from doing injury to himself or others.

Visiting committee may send notice of intention to discharge pauper lunatic to relieving officer or clerk of local authority.

80.—(1) When the visitors of an asylum order a pauper lunatic confined therein to be discharged, except on the application of a relative or friend, they may, when they think fit, send a notice in writing, signed by the clerk of the asylum, by post or otherwise, of their intention to discharge the lunatic to a relieving officer of the union to which the lunatic is chargeable, or to the clerk of the local authority liable for his maintenance.

(2) Upon receipt of such notice, the relieving officer or clerk shall cause the lunatic upon his discharge to be forthwith removed to the workhouse of the union to which the lunatic is chargeable, or, if the lunatic is chargeable to a county or borough, to the workhouse of the union from which he was sent to the asylum.

Discharge from workhouse by guardians.

81. The guardians of the union to which a workhouse belongs may make an order for the discharge of any lunatic detained therein.

Copies of reception order and other documents to be furnished.

82. The Secretary to the Commissioners shall, upon the discharge of a person who considers himself to have been unjustly confined as a lunatic, furnish to him upon his request, free of expense, a copy of the reception order and certificate or certificates upon which he was confined, and if the order was made upon petition, also of the petition and statement of particulars upon which the reception order was made.

Section 83.

Recovery of Patient.

Notice to be given on recovery of a patient.

83.—(1) The manager of every hospital and licensed house, and a person having charge of a single patient, shall forthwith, upon the recovery of a patient, send notice thereof in the case of a patient not a pauper to the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made, and in the case of a pauper to the guardians of his union, or if a local authority is liable for his maintenance to the clerk of the local authority.

As to the liability of a local authority, see section 290, *post.*

(2) The notice shall state that unless the patient is removed within seven days from the date of the notice he will be discharged.

(3) In case the patient is not removed within seven days from the date of the notice he shall be forthwith discharged.

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Power of County Court Judge.

Power to deal with property of small amount.

132.—(1) Where a reception order is made in the case of a lunatic the value of whose real and personal property is under two hundred pounds, and no relative or friend of the lunatic is willing to undertake the management of such property, any judge of county courts having jurisdiction in the place from which the lunatic is sent may, upon the application of the clerk of the guardians, or a relieving officer of the union from which the lunatic is sent, authorise the clerk or relieving officer, or such other person as the judge by his order appoints, to take possession of and sell and realise the real and personal property of the lunatic, and to exercise all the powers which could be exercised by the legal personal representative of the lunatic if he were dead; and the receipt of the person so authorised shall be a valid discharge to any person who pays any money or delivers any property of the lunatic to such person.

(2) The judge, by whom such order is made, may by the same or any subsequent orders give such directions as he thinks fit as to the application of the property of the lunatic for his benefit or in reimbursement of such sums as may have been or may be expended by the guardians of the union for his care or relief, or of the costs or expenses incurred in relation to the

lunatic by such guardians, or by the person acting under any such order as aforesaid, or the judge may, if he thinks fit, order that the whole or any part of the proceeds of the lunatic's property be paid into the county court to the credit of an account intituled in the matter of such lunatic, and any sum so paid into court may either be invested in the manner provided by the county court rules in force for the time being, or be paid out of court from time to time to such person as the judge directs, to be held and applied for the benefit of such lunatic, or in or towards such reimbursement as aforesaid, in such manner as the judge directs. Section 132.

(3) The person acting under any such order shall render an account of his dealings with the lunatic's property to the judge by whom such order was made in such manner as the judge appoints.

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189.—(1) During the continuance of a contract for the reception of the pauper lunatics of a county borough or other borough in a county asylum not less than two members of the visiting committee of the borough appointed for the purpose shall together, at least once in every six months, visit the asylum and see and examine the lunatics received under the contract, and shall report the result of their visit to the council of the borough. Visits to lunatics received under a contract.

(2) The visitors may, if they think fit, be accompanied by a medical practitioner who is not an officer of the asylum, and they may by order direct payment to such medical practitioner of such a sum as they think fit for his services, and such sum shall upon the production of the order be paid to the medical practitioner by the treasurer of the borough.

(3) Every report under this section shall be entered among the records of the council of the borough, and may be inspected by the Commissioners, and the Commissioners may, if they think fit, require the town clerk of the borough to transmit to them a copy of any such report.

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Visits to Paupers in certain Cases.

201.—(1) A medical practitioner appointed by the guardians of a union, and also the guardians of any union shall be Visits to paupers in

Section 201. institutions for lunatics.

permitted, whenever they see fit, between eight in the morning and six in the evening, to visit and examine any pauper lunatic chargeable to the union confined in any institution for lunatics, unless the medical officer of the institution delivers to the person or persons intending to make the visit a statement signed by him certifying that for the reasons set forth in the statement the visit would be injurious to the lunatic.

(2) The medical officer shall forthwith enter in the medical journal the reasons set forth in the statement, and shall sign the entry.

Visits to pauper lunatics not in an institution for lunatics.

202.—(1) Every pauper lunatic not in an institution for lunatics shall once in every quarter of a year (reckoning the several quarters as ending on the thirty-first of March, the thirtieth of June, the thirtieth of September, and the thirty-first of December) be visited, if not resident in a workhouse, by the medical officer of the union or district in which the lunatic is resident, and, if resident in a workhouse, by the medical officer of the workhouse.

(2) The guardians of every union shall from time to time furnish to every medical officer of the union forms for the prescribed returns relating to pauper lunatics not in an institution for lunatics.

(3) Where a pauper lunatic has, by order of the visiting committee, been delivered over to the custody of a relative or friend to whom an allowance is made for the maintenance of the lunatic, the medical officer of the union or district in which the lunatic resides shall, within three days after each quarterly visit, send to the visiting committee a report stating whether in his opinion the lunatic is properly taken care of, and may properly remain out of an asylum.

As to the delivery of a lunatic to a relative, see section 57, *ante*, p. 701.

(4) Each medical officer shall be paid two shillings and sixpence for each quarterly visit to a pauper not in a workhouse, and in addition two shillings and sixpence for every report sent to a visiting committee under this section, and those sums shall be paid by the same persons and be charged to the same account as the relief of the pauper.

(5) Nothing in this section shall relieve any medical officer from any obligation under this Act to give notice to a relieving

officer or overseer when it appears to such medical officer that a pauper lunatic ought to be sent to an asylum. Section 202.

See, as to this notice, section 24 (6), *ante*, p. 694.

203. Any one or more of the Commissioners shall, on such day or days, and at such hours in the day, and for such length of time as he or they may think fit, visit all such workhouses in which there is or is alleged to be any lunatic, as the Commissioners by any resolution direct, and shall inquire whether the provisions of the law have been carried out, and also as to the dietary, accommodation, and treatment of the lunatics, and shall report in writing thereon to the Commissioners, and the Commissioners shall forward a copy of every such report to the Local Government Board. Visitation of workhouses.

* * * * *

263. Lands and buildings already or to be hereafter purchased or acquired for the purposes of any asylum, and any additional building erected or to be erected thereon, shall, while used for those purposes, be assessed to county, parochial, district, and other rates made after the commencement of this Act on the same basis and to the same extent as other lands and buildings in the same parish, township, or district. Rating of asylums.

This is an alteration of the previous law. It was provided by 16 & 17 Vict. c. 97, s. 35, that no lands or buildings purchased or acquired for the purposes of an asylum should while used for such purposes be assessed to any county, parochial, or other local rates at a higher value or more improved rent than the value or rent at which the same was assessed at the time of such purchase or acquisition.

* * * * *

PART X.

EXPENSES OF PAUPER LUNATICS.

Weekly Expenses.

283.—(1) Every visiting committee shall fix a weekly sum, not exceeding fourteen shillings, for the expenses of maintenance and other expenses of each pauper lunatic in the asylum, and of such amount that the total of such weekly sums shall be suffi- Weekly sum to be fixed.

Section 283.

cient to defray such expenses, and also the salaries of the officers and attendants of the asylum, and such weekly sum may from time to time be altered.

(2) If fourteen shillings a week is found insufficient for the purposes aforesaid, the local authority to whom the asylum belongs may by order direct such addition to be made to the weekly sum as to the local authority seems necessary, and every such order shall be signed by the clerk of the local authority, and forthwith published in a local newspaper.

(3) A committee may fix a greater weekly sum, not exceeding fourteen shillings, to be charged in respect of pauper lunatics other than those sent from or settled in a parish or place within the county or borough to which the asylum belongs.

(4) Any excess created by the payment of such greater weekly sum may, if the visiting committee think fit, be paid over to a building and repair fund, to be applied by the committee to the altering, repairing, or improving the asylum, and the committee shall annually submit to the local authority a detailed statement of the manner in which such fund has been expended.

Uniform charge where more than one asylum.

284. Where there is more than one asylum under the management and control of a visiting committee, the committee may, subject to any direction given by the local authority, provide that a uniform charge shall be made for the maintenance of lunatics in the several asylums, and that for that purpose any surplus arising on the accounts of one asylum shall be applied to meet the deficit arising on the accounts of another asylum.

Medical Fees and other Expenses.

Payment of medical fees and other expenses.

285.—(1) Whenever a justice directs a lunatic or alleged lunatic, whether a pauper or not, to be examined by a medical practitioner under the provisions of this Act, the justice directing the examination, or any other justice having jurisdiction in the place where the examination took place, may make an order upon the guardians of the union named in the order for payment of such reasonable remuneration to the medical practitioner and of all such other reasonable expenses in and about the examination and the inquiry, whether an order for the reception of the alleged lunatic in an institution for lunatics or workhouse ought to be made, and also if an order is made for payment of such reasonable expenses of carrying the order into effect as the justice thinks proper.

(2) The guardians upon whom an order is made under this section may recover any sums paid thereunder against the lunatic or alleged lunatic and his estate, and the person or authority legally liable for his maintenance as in the case of orders for maintenance under this Act. Section 285.

Liability for Expenses of Maintenance.

Chargeability of pauper lunatic.

286.—(1) Where a pauper lunatic is sent to an institution for lunatics, or where a lunatic in an institution for lunatics becomes a pauper, he shall be deemed to be chargeable to the union from which he was sent, until it has been established, as by this Act provided, that the lunatic is settled in some other union, or that it cannot be ascertained in what union the lunatic was settled, and the manager of the institution shall forthwith give to the authority liable for his maintenance notice that the lunatic has become destitute.

The pauper lunatic is to be deemed to be chargeable to the union from which he is sent until he is adjudged to be chargeable to his union of settlement under section 289, or to the county under section 290.

(2) Every pauper lunatic who is chargeable to a union shall, while he resides in an institution for lunatics, be deemed for the purposes of his settlement to be resident in the union to which he is chargeable.

The 12 & 13 Vict. c. 103, s. 4, provides that the removal of a lunatic pauper to an asylum, &c., shall not be deemed to be a break of residence within 9 & 10 Vict. c. 66, but the period of residence in the asylum is to be excluded in computing the time necessary to confer irremovability.

Orders for maintenance of lunatics.

287.—(1) The justice by whom any pauper lunatic is sent to any institution for lunatics under this Act, or any two justices of the county or borough in which the institution for lunatics where any pauper lunatic is confined is situate, or from any part of which any pauper lunatic has been sent, or any two justices, being visitors of such institution, may make an order upon the guardians of the union to which the lunatic is chargeable, for payment to the treasurer, or manager of the institution, of the reasonable charges of the lodging, maintenance, medicine, clothing, and care (in this Act referred to as the expenses of maintenance) of such lunatic.

(2) Any such order may be retrospective or prospective, or partly retrospective and partly prospective.

It was held under the corresponding provisions of 16 & 17 Vict. c. 97, s. 96, that an order might be made for the payment of the expenses of the

Section 287. NOTE. maintenance of a lunatic for a period of more than twelve months previous to the date of the order: *Finch* v. *York Union*, 2 Q. B. D. 15; 46 L. J. M. C. 120; 35 L. T. (N.S.) 708; 25 W. R. 42; 41 J. P. 5.

(3) An order under this section shall not be subject to appeal.

It was held that there was no appeal against an order made under the corresponding provisions of 16 & 17 Vict. c. 97, s. 96, as it was a mere interim order necessary for the support of the lunatic until his settlement was adjudged to some union or to the county: *Kettering Union* v. *Northampton Lunatic Asylum*, 34 L. J. M. C. 198; 6 B. & S. 653; 11 Jur. (N.S.) 999; 13 L. T. (N.S.) 199; 29 J. P. 692.

Inquiry into settlement.

288. Any two justices for the county or borough in which an institution for lunatics where a pauper lunatic is or has been confined is situate, or to which such institution being an asylum wholly or in part belongs, or from any part of which any pauper lunatic is or has been sent for confinement, may, at any time, inquire into the settlement of the pauper lunatic.

A married woman was sent to an asylum as a pauper lunatic and adjudicated chargeable to L., where her husband was settled. Afterwards, while she remained in the asylum the husband acquired a settlement in W. by renting a tenement. It was held that a fresh order might be made on W.: *West Derby Union* v. *Vestry of Liverpool*, 46 J. P. 372.

Adjudication as to settlement.

289. If satisfactory evidence can be obtained as to such settlement in any union, such justices shall, by order, adjudge the settlement, and order the guardians of the union to pay to the guardians of any other union the expenses incurred in or about the examination of the lunatic and the bringing him before a justice or justices, and his removal and conveyance to or from any institution for lunatics (in this Act referred to as the incidental expenses), and all moneys paid by such last-mentioned guardians to the treasurer or manager of the institution for the expenses of maintenance of the lunatic, and incurred within twelve months previous to the date of such order, and, if the lunatic is still in confinement, also to pay to the treasurer or manager of the institution the reasonable expenses of the future maintenance of such lunatic.

The following cases were decided with reference to 16 & 17 Vict. c. 97, s. 97, which is replaced by the above section:—

The limitation to twelve months applies to the expenses of lodging, maintenance, &c., but not to those of examination and conveyance. And an order for payment of both classes of expenses, not showing when any part had been incurred, but only that they had been paid within the preceding twelve months, was, on *certiorari*, quashed as to the expenses of lodging, maintenance, &c., but not as to those of conveyance and examination: *Reg.* v. *Inhabitants of Winster*, 14 Q. B. 344.

Section 289. NOTE.

Orders of adjudication and maintenance, made by justices of the city and county of E., in the county of D., under statute 16 & 17 Vict. c. 97, s. 97, recited an order of justices of E., made in pursuance of the statute, whereby F. (the person to whom the adjudication related), being neither a pauper nor wandering, but a person not under proper care and control, and a proper person to be taken charge of and detained, was "duly sent" from S. in E. to the lunatic asylum in the county of D.; and recited further that the said F. had been confined therein to the then present day "as such pauper lunatic," and still remained there at the charge of S.; and that complaint had been made by the parish officers of S. that F. was not legally settled in S. The order then adjudicated that the settlement was in C., and ordered C. to pay maintenance, &c. It was objected that the jurisdiction of the justices to make the order sending F. to the asylum did not appear in the recited order; that it was not expressly found that F. was a lunatic, nor that the asylum to which F. was sent was that to which she ought to have been sent, nor how F. became chargeable to S.:—*Held*, that the jurisdiction to make the order of adjudication and maintenance sufficiently appeared, it not being shown that the recited order did not contain all proper requisites; and, *Semble*, that the mere fact of the lunatic being found in the asylum, at the charge of S., gave the justices jurisdiction to make the orders of adjudication and maintenance. C. was a parish in a union. The order of maintenance was addressed to the board of guardians and their clerk, and recited an application by the parish officers of S. for an order on the clerk for payment of the expenses, and it then ordered the clerk to pay:—*Held*, that this was in substance an order on the guardians: *Reg.* v. *Inhabitants of Crediton*, E. B. & E. 231; 4 Jur. (N.S.) 926; 27 L. J. M. C. 265; 31 L. T. 114; 22 J. P. 722.

The validity of an order is not affected by the fact that the order of admission was made by a justice having no jurisdiction—by WIGHTMAN, J., and MELLOR, J.; but by CROMPTON, J., the 97th section had to be read in connection with the 67th section, and applied only to a pauper lunatic *lawfully* confined. The justices must, therefore, inquire into the validity of the order under which the lunatic was sent to the asylum, and if it has been made without jurisdiction they have no jurisdiction to adjudicate: *Guardians of the Isle of Thanet Union* v. *Overseers of Faversham*, 31 L. J. M. C. 116; 6 L. T. (N.S.) 415; 26 J. P. 310.

Where a woman has been removed to a lunatic asylum at the instance of her husband, and is maintained there at the cost of the parish of settlement, such maintenance is parish relief to the husband within the 9 & 10 Vict. c. 66, s. 1, and the period of the wife's confinement in the asylum must be excluded in computing the time a husband has resided in a parish. Where, therefore, a man has resided six years in a parish, but during three of those years his wife has been confined in a lunatic asylum at his instance and at the cost of his parish or settlement, and the wife again becomes lunatic and is sent to an asylum, an order for her maintenance is properly made on the parish of settlement under section 289 of this Act, and ought not to be made on the parish of residence under section 294: *Overseers of St. Mary, Islington*, v. *Overseers of St. George, Bloomsbury*, 32 L. J. M. C. 217; 27 J. P. 662.

If settlement cannot be ascertained a pauper lunatic may be made chargeable to a borough or county.

290.—(1) If a pauper lunatic is not settled in the union from which he was sent to an institution for lunatics, and his settlement cannot be ascertained, and the lunatic was sent from a quarter sessions borough which is free from contributing to the payment of the expenses of pauper lunatics chargeable to the county in which the borough is situate, or from a place not in such a borough, then the relieving officer of the union shall give to the clerk of the local authority within whose area the lunatic

Section 290. is found, ten days' notice to appear before two justices having jurisdiction within such area, at a time and place to be appointed in the notice.

The following cases were decided under the earlier Acts:—
Where a legitimate child born in England was removed to an asylum, being then above the age of sixteen but unemancipated and living with his parents (the father being Irish and the mother English, but neither of them having any settlement), it was held that an order was properly made on the parish of his birth and not on the county: *Reg.* v. *Newchurch*, 32 L. J. M. C. 19; 3 B. & S. 107; 7 L. T. (N.S.) 271; 9 Jur. (N.S.) 536; 27 J. P. 245.

A lunatic was held to be chargeable to the county who was the wife of a man born in Scotland but having no settlement in England: *Clerk of the Peace for Somerset* v. *Shipham*, 32 L. J. M. C. 83; 3 B. & S. 507; 7 L. T. (N.S.) 673; 9 Jur. (N.S.) 869; 27 J. P. 437.

(2) Upon the appearance of the clerk of the local authority, in person or by deputy, or in case of non-appearance upon proof of due service of the notice, any two or more such justices may inquire into the circumstances of the case, and adjudge the pauper lunatic to be chargeable to the local authority, and may order the treasurer of the local authority to pay to the guardians of any union the incidental expenses of the lunatic, and all moneys paid by such guardians to the treasurer or manager of the institution for lunatics for the expenses of maintenance of the lunatic, and incurred within twelve months previous to the date of the order, and if the lunatic is still in confinement, to pay to such treasurer or manager the expenses of the future maintenance of the lunatic.

(3) Such justices may direct such further inquiries as they think fit to ascertain the union in which any pauper lunatic is settled, and delay their adjudication until after such further inquiries.

(4) Every local authority to whom a pauper lunatic is adjudged to be chargeable may at any time thereafter inquire as to the union in which the lunatic is settled, and may procure him to be adjudged to be settled in any union.

Under the corresponding provisions of the earlier Acts it was held that no appeal lay against an order adjudicating a pauper lunatic to be chargeable to the county: *Wilson* v. *Overseers of Liverpool*, 17 Q. B. 303.

An order made on the county is an interim and not a final order, and the county is not estopped by submission to it from afterwards obtaining orders of justices adjudging the pauper to be settled in some union: *All Saints, Poplar* v. *Middlesex*, 2 E. & E. 829.

Provision for reimbursement of

291. If after a pauper lunatic has been sent to an institution for lunatics, and has been adjudged chargeable to a local authority,

the local authority procure the lunatic to be adjudged to be settled in a union, any two justices of the county or borough in which the institution where the lunatic is confined is situate, or from any part of which the lunatic was sent for confinement, or any two justices, being visitors of the institution, may make an order upon the guardians of the union for payment to the treasurer of the local authority of all expenses of maintenance of the lunatic paid by such treasurer to the treasurer or manager of the institution, and incurred within twelve months previous to the order, and, if the lunatic is still in confinement, also for payment to such treasurer or manager of the expenses of the future maintenance of the lunatic.

Section 291. expenses of a lunatic afterwards adjudged to be settled in a union.

292.—(1) Justices by this Act authorised to make orders for payment of expenses upon guardians of unions, may make such orders, although the union is not within the jurisdiction of the justices.

Orders as to lunatic paupers.

(2) Orders as to the settlement or chargeability of pauper lunatics and for payment of expenses may be obtained by the guardians of any union.

293. An order for payment of the future expenses of maintenance of a lunatic shall extend to the payment of such expenses to the treasurer or manager of any institution for lunatics to which he is removed or in which he is for the time being confined.

Order for maintenance to extend to any place where the lunatic is.

294. All incidental expenses and expenses of maintenance of a lunatic removed to an institution for lunatics who would at the time of his removal have been exempt from removal to the parish of his settlement or the country of his birth by reason of some provision of the Poor Removal Act, 1846, as amended by subsequent Acts, shall be paid by the guardians of the union wherein the lunatic has acquired such exemption, and no order shall be made in respect of such lunatic under any provision contained in this or any other Act upon the guardians of the union in which the lunatic is settled while the above-mentioned expenses are to be paid and charged as herein provided.

The costs of pauper lunatics who are irremoveable. 9 & 10 Vict. c. 66.

A pauper lunatic had resided with her parents as part of their family in the respondent parish for more than five years next before the 20th of October, 1847, when she, being fifteen years of age, became chargeable (her parents not then being chargeable), and was removed to the workhouse, and remained there until July, 1852, when she was removed to a lunatic asylum, and subsequently an order for settlement and maintenance was made on the appellant parish. At that time she was under twenty-

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one, unemancipated and unmarried, and had no other settlement than that derived from her father. In 1849, her father ceased to reside in the respondent parish :—*Held*, that at the time when the pauper was removed to the asylum she was not irremovable under the 9 & 10 Vict. c. 66; and, therefore, that the order of maintenance was properly made upon the parish of settlement instead of on the common fund of the union, under the 12 & 13 Vict. c. 103 : *Reg.* v. *St. Anne, Blackfriars*, 22 L. J. M. C. 137.

On the 17th October, 1854, J. R., who was then eighteen years old and living unemancipated with his father, T. R., in the parish of A., in the S. union, was removed as a lunatic pauper to an asylum, where he had since continued. At that time both T. R. and J. R. had resided in A. for more than the five next preceding years. T. R. continued to reside there till 1857, when he left, and had not since returned. T. R.'s settlement, both on and since the 17th October, 1854, was in the parish of G. J. R. was maintained in the asylum from that date at the cost of the S. union until, it being discovered that T. R. had left A., an order of justices was, on 11th October, 1859, made under statute 16 & 17 Vict. c. 97, s. 97, adjudging J. R. to be settled in, G., and ordering G. to pay the preceding twelve months' expenses of his maintenance and a weekly sum for his future support. Section 102 of that Act provided that all expenses incurred for the removal, maintenance, &c., of a pauper lunatic removed to an asylum, "who would at the time of his being conveyed to such asylum" "have been exempt from removal to the parish of his settlement" "by reason of some provision in" statute 9 & 10 Vict. c. 66, "shall be paid by the guardians of the parish wherein such lunatic shall have acquired such exemption," and where such parish shall be comprised in any union, the same shall be paid by the guardians and be charged to the common fund of such union ; "and no order shall be made under any provision in this Act on the parish of the settlement in respect of any such lunatic pauper." On a case stated on an appeal to sessions by G. against the order of 11th October, 1859 :—*Held*, that 16 & 17 Vict. c. 97, s. 102, applied, and the order was therefore bad. That J. R. was, at the time of his being conveyed to the asylum, exempt from removal to G. by reason of a provision in 9 & 10 Vict. c. 66, with which the amending statute 11 & 12 Vict. c. 111, was to be read as one ; and had himself, though not *sui juris*, acquired such exemption in A. : *Guardians of the Strand Union* v. *Overseers of St. Giles-in-the-Fields*, 3 E. & E. 224 ; 30 L. J. M. C. 12 ; 3 L. T. (N.S.) 292 ; 7 Jur. (N.S.) 161 ; 24 J. P. 756.

A pauper lunatic born in Ireland and having no English settlement was removed to an asylum after five years' residence in a parish in England, from which, if sane, he would have been irremovable by 9 & 10 Vict. c. 66, it was held that the union, not the county, was liable for the expenses of his removal and maintenance : *Reg.* v. *Arnold*, 18 A. & E. 553 ; 21 L. J. M. C. 180 ; 17 Jur. 300.

Justices sent a pauper lunatic residing in the township of M., in the county of L., to the county lunatic asylum of L., where he remained a patient for about three months, when he was discharged. About nine months after, justices made an order adjudicating the settlement of the pauper to be in S., in the union of H., in the county of Y., and ordering the union to pay the expenses of the conveyance to the asylum and of the lodging, &c., there under 16 & 17 Vict. c. 97, s. 99. On appeal against the order for payment, it was objected that such order was bad, inasmuch as by section 102 such expenses, in the case of a pauper lunatic who would at the time of the conveyance to the asylum have been exempt from removal to the parish of his settlement by reason of 9 & 10 Vict. c. 66, are to be paid by the parish where the exemption has been acquired, and not by the parish of settlement ; and that under 9 & 10 Vict. c. 66, s. 4, no warrant could be granted for the removal of any person becoming chargeable in respect of relief made necessary by sickness, unless it was stated in the warrant that the justices granting it were satisfied that the sickness would produce permanent disability ; and that it appeared in this case that the lunacy was not such a sickness :—*Held*, that section 4 of

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9 & 10 Vict. c. 66, was inapplicable, and the order for payment good: *Reg.* v. *Guardians of Manchester*, 6 E. & B. 919; 26 L. J. M. C. 1; 28 L. T. 369; 20 J. P. 726.

A pauper having resided five years in A., a parish in a union, was removed without an order to the workhouse of the union, where he remained twelve months. A. paid the union a small sum; afterwards M., another parish in the union, paid the union for the maintenance, by consent of the guardians for M. at the board of the union, on the supposition that the pauper was settled in M. The pauper became lunatic and was removed to an asylum by an order describing him to be from A.; it did not appear that either A. or M. interfered in this removal. Afterwards 9 & 10 Vict. c. 66, passed, M. paid for pauper's maintenance in the asylum for many years after his removal thither, and after the passing of that statute and of 16 & 17 Vict. c. 97:—*Held*, that under section 102 of 16 & 17 Vict. c. 97, the union was properly chargeable for the expenses in the lunatic asylum, as the pauper at the time of his removal thither would, but for such removal, have been exempt from removal from A. under 9 & 10 Vict. c. 66, inasmuch as neither the removal to the workhouse without an order nor the removal to the lunatic asylum interrupted the residence in A. by 12 & 13 Vict. c. 103, s. 4 (though the time spent in the workhouse and lunatic asylum was excluded from the computation of time of residence). So far as regarded irremovability under 9 & 10 Vict. c. 66, section 56 of 7 & 8 Vict. c. 101, did not break the residence in A. The payment by M., if evidence of settlement, there was such evidence as might be rebutted: *Reg.* v. *Guardians of West Ward Union*, 7 E. & B. 21; 3 Jur. (N.S.) 185; 26 L. J. M. C. 29; 21 J. P. 212.

A lunatic having a settlement in I., but having the status of irremovability from M., was, in 1851, sent to an asylum from M., which was not comprised in any union; and an order for the expenses was made on I. 16 & 17 Vict. c. 97, having passed, I. refused to pay any expenses incurred subsequently to 29th September, 1853. Two justices issued a distress warrant to levy the arrears under which the goods of one of the overseers of I. were seized. A writ being issued by him against the justices, a case was stated for the Queen's Bench:—*Held*, by the Exchequer Chamber, reversing the judgment of the Queen's Bench, that the justices had no jurisdiction to issue the warrant; the order on I. being by implication annulled by 16 & 17 Vict. c. 97, and there being no obligation on I. to take any steps to get rid of it: *Knowles* v. *Trafford*, 7 E. & B. 144; 3 Jur. (N.S.) 1018; 26 L. J. M. C. 188; 21 J. P. 452.

A pauper having the status of irremovability in L. by virtue of 9 & 10 Vict. c. 66, while she was in W. for a temporary purpose, not such as to break the status, became lunatic and was removed by a justice's order to a lunatic asylum. She was settled in T.—*Held*, that under 16 & 17 Vict. c. 97, s. 102, justices had power to make an order on L. for payment of expenses incurred since 29th September, 1853, in the examination, removal, maintenance, &c.: *Leeds (Overseers of)* v. *Wakefield Union*, 7 E. & B. 258; 26 L. J. M. C. 37; 3 Jur. (N.S.) 292; 21 J. P. 582.

Where a woman, who was residing separate from her husband and in a different parish, was sent to a lunatic asylum as a pauper lunatic under 16 & 17 Vict. c. 97, the order for her maintenance was properly made on the parish of her husband's settlement under section 97, and ought not to have been made under section 102 on the union of the parish from which the husband is irremovable by reason of five years' residence: *Reg.* v. *East Retford Union*, 32 L. J. M. C. 17; 27 J. P. 229; 7 L. T. (N.S.) 315.

E. M., a single woman, aged twenty-eight, having resided in the R. union as a domestic servant for more than a year, was suddenly seized with mania on the 16th September; the next day her mother fetched her away from her master's house (he paying the wages up to that day), and took her to her parents' residence in the S. union. She remained with her parents one night, and the next day was taken to the S. union house, and on the 26th September she was sent to the county lunatic asylum as a pauper lunatic, where she still remained, having continued insane from her first seizure. E. M.'s settlement was in the W. union:—*Held*, that the

Section 294. order for her maintenance under 16 & 17 Vict. c. 97, ss. 97, 102, ought to be on the R. union, and not on the W. union, for that the lunatic, having acquired a status of irremovability by a year's residence in R., her mere bodily removal while she was unable to exercise any will of her own was no break of the residence: *Guardians of the Stepney Union* v. *Guardians of the Whitby Union*, L. R. 5 Q. B. 325; 39 L. J. M. C. 97; 34 J. P. 725.

NOTE.

The husband of a pauper had resided in the respondent union continuously for upwards of three years. During part of this time the pauper was in lunatic asylums, where she was maintained as a pauper lunatic, but in lucid intervals, the aggregate of which amounted to more than a year, she lived with her husband in the respondent union. The husband did not during his residence receive parish relief otherwise than in respect of the maintenance of his wife as a pauper lunatic:—*Held*, that the husband was irremovable, for the period during which he did not receive parish relief could be put together in order to constitute a year's residence by him under 9 & 10 Vict. c. 66, s. 1, and 28 & 29 Vict. c. 79, s. 8, and that the pauper took her husband's status of irremovability: *Guardians of Ipswich Union* v. *Guardians of West Ham Union*, 20 Q. B. D. 407; 58 L. T. (N.S.) 419; 36 W. R. 473; 52 J. P. 469.

Charges may be paid without orders of justices.

295. The guardians upon whom an order might be made under this Act for the payment of any money may pay the same without an order, and may charge the same to such account as they could have done if an order had been made.

The liability of relations of pauper not to be affected.

296. The liability of any relation or person to maintain any lunatic shall not be taken away or affected, where such lunatic is sent to or confined in any institution for lunatics, by any provision herein contained concerning the maintenance of such lunatic.

The father, grandfather, mother, grandmother, and children of every poor, old, blind, lame, or impotent person who becomes chargeable are liable to maintain such person under 43 Eliz. c. 2, s. 6.

A man is liable for relief to his wife or to his or her children under sixteen: 4 & 5 Will. 4, c. 76, ss. 56, 57.

A husband is liable for the maintenance of his wife if she is a lunatic in an asylum under 13 & 14 Vict. c. 101, s. 5.

A woman is liable to maintain her bastard child: 4 & 5 Will. 4, c. 76, s. 71.

The object of the enactment in the text is to remove any doubt as to the right of the guardians to be reimbursed by the relations of a lunatic chargeable to the union.

Expenses of removal, discharge, and burial.

297. The necessary expenses attending the removal, discharge, or burial of a pauper lunatic in any institution for lunatics, shall be borne by the union to which the lunatic is chargeable, or the local authority liable for his maintenance, and shall be paid by the guardians of the union or by the treasurer of the local authority.

Provisions of Act as to expenses to extend to pauper

298. The provisions of this Act for the payment of expenses in relation to pauper lunatics shall be applicable with respect to persons confined as pauper lunatics sent to any institution for lunatics under any other Act authorising their reception therein

as pauper lunatics, and (save as herein otherwise provided concerning any lunatic who shall appear to have any real or personal property applicable to his maintenance) with respect to all other lunatics sent to any institution for lunatics under any order of a justice or justices made before the commencement of this Act, or under a summary reception order made by a justice under this Act, or under an order made by two or more commissioners before or after the commencement of this Act, as if such last-mentioned lunatics were at the time of being so sent actually chargeable to the union from which they are sent. Section 298. Lunatics sent to asylums under any other Act.

Application of Lunatic's Property.

299.—(1) If it appears to any justice that a lunatic, chargeable to any union, or local authority, has any real or personal property more than sufficient to maintain his family, if any, such justice may by order direct a relieving officer of the union, or the treasurer or some other officer of the local authority, to seize so much of any money, and to seize and sell so much of any other personal property of the lunatic, and to receive so much of the rents of any land of the lunatic as the justice may think sufficient to pay the expenses of maintenance and incidental expenses respectively incurred or to be incurred in relation to the lunatic. Power to recover expenses against lunatic's estate.

In the case of necessaries supplied to a lunatic, the law raises a contract by implication on the part of the lunatic under which the amount of such necessaries may become payable as a debt out of his real or personal estate in an action for administration: *Wentworth* v. *Tubb*, 1 Y. & C. (Ch.) 171.

An order was made to ascertain what sums were due to the brother of a lunatic and to the union for his maintenance, and whether the sums so due and the future maintenance of the lunatic should not be raised out of a reversionary interest belonging to him: *In re Burbidge*, 3 M. & G. 1.

An order was made on the petition of guardians under the Trustee Relief Act for payment out to them of a fund paid in by trustees, in which fund a lunatic was interested, of sums expended on the lunatic's maintenance, the Lord Chancellor holding that by the Act the court was placed in the position of the trustees, and that the trustees might have made the payment: *Re Upfull's Trusts*, 3 M. & G. 281.

Where a pauper lunatic was placed in an asylum and expenses were incurred by the parish to which he belonged in his maintenance and that of his family, and he came into property, the court ordered payment to the overseers and guardians out of the fund for the past maintenance of himself, his wife, and child: *In re Drewery's Trust*, 2 W. R. 436.

Where a lunatic had been maintained in an asylum by his parish, a portion of the capital of a fund belonging to him which had been paid in under the Trustee Relief Act was ordered to be applied in defraying the past charges of the parish. It was doubted whether, under the above circumstances, justices had jurisdiction to order, under 16 & 17 Vict. c. 97, s. 104, seizure of capital or only of income. The court has a discretion to order such repayment or not as it may think most for the benefit of the lunatic: *Re Buckley's Trust*, Johns, 700.

A., entitled to administration of the effects of B., was a pauper lunatic,

Section 299.

NOTE.

and as such was confined in a county lunatic asylum, and no committee of her person or effects had been appointed. A.'s next-of-kin having been cited and not having appeared, the court, under 20 & 21 Vict. c. 77, s. 73, granted administration of the effects of B. to the guardians of the poor at whose expense A. was maintained, for A.'s use and benefit, limited to the period of her lunacy: *Southwell* v. *Findlay*, 33 L. J. P. & M. 21; 9 Jur. (N.S.) 1253; 9 L. T. (N.S.) 346; 27 J. P. 760.

Where a lunatic in the workhouse was entitled to certain funds in court, on her petition by her next friend the court ordered that after payment of the costs the residue should be transferred to a separate account, and that the dividends should be paid to the next friend during her life or until further order, he undertaking to apply them for her benefit. The court refused to allow any portion of the fund to be raised and paid to the guardians for past maintenance: *Re Coleman's Trust*, W. N. 1866, p. 209.

Administration of the effects of a pauper who died chargeable to a union was granted to the guardians as creditors under 12 & 13 Vict. c. 103, s. 16: *Cleaver* v. *McKenna*, 35 L. J. P. & M. 91.

Deceased at the time of his death had been for many years supported at a county lunatic asylum as a lunatic at the expense of the union to which he belonged. The guardians had not obtained any order under 16 & 17 Vict. c. 97, s. 104. The court was asked to grant administration to the nominee of the guardians as creditors of the deceased, the deceased's sole next-of-kin, who was also a pauper lunatic, having been cited. The court held that even supposing the guardians to be creditors of the estate of the deceased, they were not entitled to a grant until they had cited the next-of-kin of the lunatic's next-of-kin: *Windeatt* v. *Sharland*, L. R. 2 P. & D. 217. Afterwards, however, the court granted administration: *Ib.* p. 266.

M., a pauper lunatic in an asylum at B., but not found lunatic by inquisition, became entitled to a small fund in court. An order was made in 1856 on petition under the Trustee Relief Act by M. by his next friend, directing that he should continue at the asylum until further order, and, the guardians of the poor of his parish undertaking to maintain him there, that 31*l.* a year should be raised out of the fund and paid to the guardians in repayment of the sums to be expended in his maintenance. In 1859 he was removed to the new asylum for his county by order of the justices, but without any order of the Court of Chancery. From this time no payments were applied for by the guardians. He remained in the county asylum till his death in 1875. His legal personal representative petitioned for transfer of the funds in court to him. The guardians appeared and claimed maintenance for the past time. It was held that the guardians could not claim maintenance under the order, which ceased to be operative on the lunatic's removal to a fresh asylum. It was held also that any claim for maintenance independently of the order was merely a debt of the lunatic, payable by his legal personal representative in due course of administration, and that the court had no jurisdiction in the matter to order payment of it, but that the whole fund must go to the personal representative: *In re Marman's Trust*, 8 Ch. D. 256; 38 L. T. (N.S.) 797; 26 W. R. 621.

The question was raised, but not decided, whether a person who supplies a lunatic with necessaries, knowing him to be lunatic, can maintain an action against him on the ground of an implied contract: *In re Weaver*, 21 Ch. D. 615; 48 L. T. (N.S.) 93; 31 W. R. 224.

A pauper lunatic having died seised of a small amount of real estate:—*Held*, that the amount of sums paid by the guardians of the union to which the pauper was chargeable (though not the union in which he died), in respect of his maintenance at a lunatic asylum, was a debt recoverable in a creditor's action against his personal and real representatives, though no steps to recover payment of expenses incurred in respect of such maintenance were taken by the guardians in the pauper's lifetime: *In re Webster, Guardians of Derby Union* v. *Sharratt*, 27 Ch. D. 710; 51 L. T. (N.S.) 319.

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The deceased had for over six years prior to her death been supported as a pauper lunatic in the county asylum. During the whole of this period she was entitled to an annuity, but this fact only came to the knowledge of the guardians at or after the time of her death. It was held that the guardians were creditors under 12 & 13 Vict. c. 103, s. 16, and as such entitled to administration. It was held also that the claim of the guardians was not limited to the period of twelve months prescribed by that section, but that in respect of such period they were entitled absolutely to repayment, and as to a further period not exceeding five years, making six years in all, they were entitled to come in and claim as ordinary creditors, notwithstanding the fact that they had taken no steps to recover payment for such expenditure during the lifetime of the deceased: *Guardians of Lambeth* v. *Bradshaw*, 57 L. T. (N.S.) 86; 50 J. P. 472.

It was held that under 16 & 17 Vict. c. 97, s. 104, the guardians of a parish to which a pauper lunatic was chargeable were entitled, in the event of his becoming entitled to property, to recover only six years' arrears in respect of sums paid by them for his maintenance: *Re Newbegin*, *Eggleton* v. *Newbegin*, 36 Ch. D. 477; 56 L. J. Ch. 907; 57 L. T. (N.S.) 390; 36 W. R. 69.

B., a pauper lunatic, died a spinster and without parents, leaving three brothers and one sister her surviving, all of whom renounced there right to administration. One other brother, who had gone to America in 1871, but who had not been heard of since 1883, was cited by advertisement under order of the court. The court, upon the application of the guardians, made a grant of administration to the clerk of the board as their nominee: *Re Byrne*, 52 J. P. 281.

The husband of a deceased intestate was a lunatic pauper confined in a lunatic asylum at the charge of the guardians. Notice having been given to his next-of-kin and no appearance entered, the court made a grant to the guardians for the use and benefit of the lunatic, and limited to such time as he should remain insane: *Re Eccles*, 15 P. D. 1.

(2) If any trustee, or the Bank, or any other society or person having possession of any property of a lunatic, shall pay or deliver to a relieving officer of a union, or to the treasurer or other officer of the local authority to which respectively a lunatic is chargeable, any money or other property of the lunatic, to repay the charges in this section mentioned, whether pursuant to an order under this section, or without an order, the receipt of such relieving officer, treasurer, or officer shall be a good discharge.

Order by county court judge.

300. An order may be made by a judge of county courts upon an application by the guardians of any union for payment of the expenses incurred by them under this Act in relation to a lunatic, and such order may be enforced against any property of the lunatic in the same way as a judgment of the county court.

This clause seems to enable the guardians to bring an action in the county court to recover from the lunatic any sums which they are entitled to recover against him or his estate. It is in addition to the power given to them by section 299, and will enable them to reach property of the lunatic in the hands of trustees or other persons who are unwilling to hand it over under the justices' order. In this way the guardians may recover the cost of six years' maintenance. See *Re Newbegin*, *supra*.

Appeals.

Section 301.

Persons aggrieved by refusal of an order may appeal to the sessions.

301.—(1) Any person aggrieved by the refusal of an order by any justice or justices as to any matter within the jurisdiction of a justice or justices under this Part of this Act, may appeal to a court of quarter sessions upon giving to the justice or justices against whom the appeal is made fourteen clear days' notice of appeal.

(2) The determination of the court upon the appeal shall be final.

Party obtaining order of adjudication to send copy thereof and statement of grounds.

302. The guardians of any union, and the clerk of a local authority, obtaining any order under this Act adjudging the settlement of any lunatic to be in any union, shall, within a reasonable time after the date of the order, send or deliver, by post or otherwise, to the guardians of the union in which the lunatic is adjudged to be settled, a copy of the order, and also a statement in writing under the hand of the clerk to the guardians, or under the hand of the clerk of the local authority, as the case may be, stating the description and address of the guardians or clerk obtaining the order, and the place of confinement of the lunatic, and setting forth the grounds of the adjudication, including the particulars of any settlement relied upon in support thereof; and on the hearing of any appeal against the order the respondents shall not give evidence of any other grounds in support of the order than those set forth in such statement.

The statement of grounds had formerly to be signed by three or more guardians (16 & 17 Vict. c. 97, s. 107). An objection that the three guardians had signed elsewhere than at a meeting of guardians was upheld at the Middlesex Sessions: *Shaftesbury Union v. Paddington Union*, 45 J. P. 80.

Appeal against order of adjudication.

303. If the guardians of any union feel aggrieved by any order adjudging the settlement of a lunatic, they may appeal to the quarter sessions of the county or borough on behalf of which the order has been obtained, or in which the union obtaining the order is situate, or, in case such union extends into several counties, then to the next quarter sessions for the county or borough in which the institution for lunatics where the lunatic is or has been confined is situate, and such sessions, upon hearing the appeal, shall have full power finally to determine the matter.

The appeal was limited, under 16 & 17 Vict. c. 97, s. 108, to the quarter sessions "for the county on behalf of which such order has been obtained,

Section 303. NOTE.

or in which the union or parish obtaining such order is situate :" *Reg.* v. *Warwickshire JJ.*, 28 L. J. M. C. 249 ; 23 J. P. 757. An appeal will now lie to the borough sessions.

The words "several counties" have been substituted for "several jurisdictions" in 16 & 17 Vict. c. 97, s. 108, thus avoiding the difficulty of construction which arose in *Reg.* v. *Kent JJ.*, L. R. 1 Q. B. 385 ; 35 L. J. M. C. 201 ; 14 L. T. (N.S.) 331 ; 30 J. P. 612.

Where the appellants have acted upon a notice of appeal to the borough sessions, they cannot afterwards treat it as a notice of appeal to the county sessions ; but where the notice erroneously states an intention to appeal to a borough sessions, and no steps are taken upon it by either party, the words relating to the place may be treated as surplusage, and the notice as a notice to the county sessions : *Reg.* v. *Salop JJ.*, 4 E. & B. 457 ; 24 L. J. M. C. 14 ; 19 J. P. 149.

At the hearing of an appeal against an order of justices adjudicating the settlement of a pauper lunatic, and ordering payment for his maintenance, the court has power to adjourn the hearing to the next sessions, and this after the trial and hearing of the appeal have been partly proceeded with. But the power of so adjourning ought to be cautiously and carefully exercised : *Reg.* v. *Cambridge*, 30 L. J. M. C. 137.

There is no appeal against an order under section 287, *ante*, p. 713. See that section.

Copy of depositions to be furnished on application.

304.—(1) The clerk to the justices making an order adjudging the settlement of a lunatic, or the clerk of the peace in the case hereinafter provided for, shall keep the depositions upon which the order was made, and shall, within seven days after application by any party authorised to appeal against the order, furnish a copy of the depositions to the applicant.

(2) The person applying for a copy of the depositions shall pay for the same at the rate of twopence for every folio of seventy-two words.

(3) No omission or delay in furnishing a copy of the depositions shall be a ground of appeal against the order.

(4) On the trial of any appeal no such order shall be quashed or set aside either wholly or in part on the ground that the depositions do not furnish sufficient evidence to support, or that any matter therein contained or omitted raises an objection to the order or grounds on which the same was made.

It is not a valid ground of objection that the order of justices recited in the order of maintenance adjudicating the pauper's settlement was made upon hearsay evidence only : see *Reg.* v. *St. Peter, Barton-upon-Humber*, 17 Q. B. 630 ; 21 L. J. M. C. 23 ; 16 J. P. 212.

(5) If the justices who make any such order have no clerk, they shall send or deliver the depositions to the clerk of the peace of the county or borough to the quarter sessions whereof the appeal lies, and the party obtaining such order shall, in the statement of the grounds of adjudication, state that the justices have no clerk.

Section 305.

No appeal if notice not given within a certain time.

305. No appeal shall be allowed against any such order notice in writing of the appeal is not sent or delivered by post or otherwise to the party on whose application the order was obtained within twenty-one days after the sending or delivery, as hereinbefore directed, of a copy of the order, and such statement as hereinbefore mentioned, unless within the twenty-one days a copy of the depositions has been applied for by the party intending to appeal, in which case a further period of fourteen days after the sending of such copy shall be allowed for giving notice of appeal.

Grounds of appeal to be stated.

306. In every case where notice of appeal against such order is given the appellant shall, with the notice, or fourteen days at least before the first day of the sessions at which the appeal is to be tried, send or deliver by post or otherwise to the respondent a statement in writing under his hand, or where the appellants are the guardians of a union, under the hand of the clerk to the guardians, of the grounds of such appeal; and the appellant shall not, on the hearing of any appeal, give evidence of any other grounds of appeal than those set forth in such statement.

Formerly the grounds had to be signed by three guardians (16 & 17 Vict. c. 97, s. 111), and this could only be done at a board meeting: *Shaftesbury Union* v. *Paddington Union*, 45 J. P. 80; *Ringwood Union* v. *Lymington Union*, 46 J. P. 488; *New Forest Union* v. *Gower Union*, 49 J. P. 248; *Reg.* v. *Cambridgeshire JJ.*, 27 J. P. 70; 7 L. T. (N.S.) 675.

The fourteen days must be reckoned exclusive of the first day of sessions: *Reg.* v. *Shropshire JJ.*, 8 A. & E. 173.

As to the sufficiency of statement of grounds of adjudication or appeal.

307.—(1) Upon the hearing of any appeal against any such order no objection whatever on account of any defect in the form of setting forth any ground of adjudication or appeal in any such statement shall be allowed, and no objection to the reception of legal evidence offered in support of any such ground alleged to be set forth in any such statement shall prevail, unless the court is of opinion that such alleged ground is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial.

(2) In all cases where the court is of opinion that any such objection to such statement or to the reception of evidence ought to prevail, the court may, if it thinks fit, cause any such statement to be forthwith amended by some officer of the court, or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same

sessions, or to the next subsequent sessions, or both payment of costs and postponement, as to the court appears just. Section 307.

Power for court to amend order on account of omission or mistake.

308.—(1) If, upon the trial of any appeal against any such order, or upon the return to a writ of certiorari, any objection is made on account of any omission or mistake in drawing up the order, and it is shown to the satisfaction of the court that sufficient grounds were proved before the justices making the order to authorise the drawing up thereof free from the omission or mistake, the court may, upon such terms as to payment of costs as it thinks fit, amend the order and give judgment as if no omission or mistake had existed.

By a local Act the churchwardens and overseers, together with twenty-one persons, were declared to be the guardians of the poor of the parish of L. Justices made an order adjudging the settlement of a lunatic on "the churchwardens and overseers of the parish of L.," which was served upon the overseers but not on the guardians. On appeal to quarter sessions the order was amended into an order on the guardians of L. It was held that both orders were bad; that the mistake was one of substance, and not of form; and that the amending order ought to affect new parties who had never been before the court: *Reg.* v. *Liverpool*, 29 L. J. M. C. 137; 2 L. T. (N.S.) 173; 24 J. P. 646.

(2) No objection on account of any omission or mistake in any such order brought up upon a return to a writ of certiorari shall be allowed, unless the omission or mistake has been specified in the rule for issuing such writ of certiorari.

Power of court as to costs.

309.—(1) Upon every such appeal the court before whom the same is brought may, if it thinks fit, order the party against whom the same is decided to pay to the other such costs and charges as may to the court appear just, and shall certify the amount thereof.

(2) If either of the parties to the appeal have included in the statement of grounds of adjudication or of appeal sent to the opposite party any grounds in support of the order or of appeal which, in the opinion of the court determining the appeal, are frivolous and vexatious, such party shall be liable, at the discretion of the court, to pay the whole or any part of the costs incurred by the other party in disputing any such grounds.

An order for costs cannot be made at a sessions subsequent to that at which the appeal was heard: *Reg.* v. *Staffordshire JJ.*, 26 L. J. M. C. 179; 22 J. P. 209.

Decision upon appeal to be final.

310. The decision of the court upon the hearing of any appeal against any such order, as well upon the sufficiency and effect of the statement of the grounds in support of the order

Section 310. and appeal, and of the copy or duplicate of the order sent to the appellant, as upon the amending or refusing to amend the order as aforesaid, or the statement of grounds, shall be final, and shall not be liable to be reviewed in any court by means of a writ of certiorari or mandamus or otherwise.

Abandonment of orders.

311.—(1) In any case in which an order has been made as aforesaid, and a copy thereof sent as herein required, the party who has obtained the order, whether any notice of appeal against the order has been given or not, and whether any appeal has been entered or not, may abandon the order, by notice in writing under the hand of such party, or, where the order has been obtained by the guardians of a union, under the hand of the clerk to the guardians, to be sent by post or delivered to the appellant or the party entitled to appeal, and thereupon the order and all proceedings consequent thereon shall be void, and shall not be given in evidence, in case any other order for the same purposes is obtained.

(2) In all cases of such abandonment the party abandoning shall pay to the appellant or the party entitled to appeal the costs which he has incurred by reason of the order and of all subsequent proceedings thereon.

(3) The proper officer of the court before whom the appeal (if it had not been abandoned) might have been brought shall, upon application, tax and ascertain the costs, at any time, whether the court is sitting or not, upon production to him of the notice of abandonment, and upon proof to him that such reasonable notice of taxation, together with a copy of the bill of costs, has been given to the guardians, or clerk abandoning the order, as the distance between the parties shall in his judgment require; and thereupon the sum allowed for costs, including the usual costs of taxation, which such officer is hereby empowered to charge and receive, shall be endorsed upon the said notice of abandonment, and the said notice so endorsed shall be filed among the records of the said court.

It was held under the corresponding provisions of 16 & 17 Vict. c. 97, s. 117, that an action lies to recover costs which have been taxed by the clerk of the peace, and which arise out of an order made by justices subsequently abandoned after notice of appeal had been given: *Dewsbury Union* v. *West Ham Union*, 56 L. J. M. C. 89.

Guardians and officers interested to have access

312. In every case of an inquiry, or appeal as to the union in which a pauper lunatic is settled, the guardians, clerks of the guardians, and relieving officers of every union interested in the

inquiry or appeal, and every person duly authorised by them respectively, and the clerk of the local authority interested in the inquiry or appeal, and every person duly authorised by him, shall at all reasonable times be allowed free access, in the presence of the medical attendant, to the lunatic to examine him as to the premises. Section 313. to the lunatic.

313. The provisions of section thirty-one of the Summary Jurisdiction Act, 1879, shall not apply to appeals under this part of this Act. Section 31 of 42 & 43 Vict. c. 49, not to apply.

Recovery of Expenses.

314.—(1) If the treasurer of any local authority, upon whom any order of justices for the payment of money under the provisions of this Act is made, refuses or neglects for twenty days after due notice of such order to pay the money, the money, together with the expenses of recovering the same, shall be recovered by distress and sale of the goods of the treasurer so refusing or neglecting, by warrant under the hands of any two justices authorised to make the order for payment of the money, or by an action at law, or by any other proceeding in a court of competent jurisdiction, against the treasurer. Money ordered to be paid may be recovered by distress or action.

(2) If the guardians upon whom any such order is made refuse or neglect for such time as aforesaid to pay the money, the same, together with the expenses of recovering the same, may be recovered by an action at law or by any other proceeding in any such court.

(3) In case of any such action or proceeding no objection shall be taken to any default or want of form in any order for reception or maintenance, or in any certificate or adjudication under this Act, if such order or adjudication has not been appealed against, or if appealed against has been affirmed.

PART XI.

PENALTIES, MISDEMEANORS, AND PROCEEDINGS.

315.—(1) Every person who, except under the provisions of this Act, receives or detains a lunatic, or alleged lunatic, in an institution for lunatics, or for payment takes charge of, receives to board or lodge, or detains a lunatic or alleged lunatic in an unlicensed house, shall be guilty of a misdemeanor, and in the latter case shall also be liable to a penalty not exceeding fifty pounds. Lunatics not to be detained except in accordance with Act.

Section 315.

(2) Except under the provisions of this Act, it shall not be lawful for any person to receive or detain two or more lunatics in any house unless the house is an institution for lunatics or workhouse.

(3) Any person who receives or detains two or more lunatics in any house, except as aforesaid, shall be guilty of a misdemeanor.

* * * * *

Mis-statements.

317.—(1) Any person who makes a wilful mis-statement of any material fact in any petition, statement of particulars, or reception order under this Act, shall be guilty of a misdemeanor.

(2) Any person who makes a wilful mis-statement of any material fact in any medical or other certificate, or in any statement or report of bodily or mental condition under this Act, shall be guilty of a misdemeanor.

(3) A prosecution for a misdemeanor under this section shall not take place except by order of the Commissioners, or by the direction of the Attorney-General or the Director of Public Prosecutions.

False entries.

318. Any person who in any book, statement, or return, knowingly makes any false entry as to any matter as to which he is by this Act or any rules made under this Act required to make any entry, shall be guilty of a misdemeanor.

* * * * *

Power to make rules.

338.—(1) It shall be lawful for the Commissioners, with the approval of the Lord Chancellor, by rules, to prescribe the books to be kept in institutions for lunatics and houses for single patients, and the entries to be made therein, and the returns, reports, extracts, copies, statements, notices, plans, documents, and information to be sent to the Commissioners or any authority or person, and the persons by whom, the times within which, and the manner in which, such entries, returns, reports, extracts, copies, statements, notices, plans, documents, and information are to be made and sent; and also by rules to prescribe forms for the purposes aforesaid in addition to or in substitution for any forms now in use.

Rules have been made by the Commissioners in Lunacy, with the approval of the Lord Chancellor, dated 29th March, 1890. They are included in the present volume.

Section 338.

(2) Subject to the preceding sub-section, the Lord Chancellor may make rules in lunacy for carrying this or any other Act relating to lunacy into effect, and also for regulating costs in relation thereto.

(3) Where by any Act already passed or hereafter to be passed any application in lunacy is directed or authorised to be made by petition, or in any other specified manner, the Lord Chancellor may by rule direct in what manner the application is to be made.

(4) The Lord Chancellor and a Secretary of State respectively may by rules provide for preventing interference or delay in the exercise of the ordinary jurisdiction of the judges of county courts and magistrates respectively by the transfer of petitions and notices or otherwise as such rules may direct.

(5) Subject to any rules made under this section, the existing rules shall, so far as applicable, continue in force.

(6) All rules made under the provisions of this section shall be laid before Parliament within three weeks after they are made if Parliament is then sitting, and, if Parliament is not then sitting, within three weeks after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if enacted by this Act.

(7) A rule under the provisions of this section shall not come into operation until the expiration of one month after the same has been made and issued.

Forms.

339. Subject to rules made under this Act, the forms in the Second Schedule may be used, wherever applicable, with such modifications as circumstances may require, and if used, shall be deemed to be sufficient.

Savings as to criminal lunatics, &c.

340.—(1) Save as in this Act otherwise expressly provided, this Act shall not extend to criminal lunatics.

See the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64, *ante*, p. 273.

49 & 50 Vict. c. 25.

(2) This Act shall not affect the provisions of the Idiots Act, 1886.

See the Idiots Act, 1886, 49 & 50 Vict. c. 25, *ante*, p. 422.

Definitions.

341. In this Act, if not inconsistent with the context—

"Asylum" means an asylum for lunatics provided by a county or borough, or by a union of counties or boroughs:

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"The Bank" means the Governor and Company of the Bank of England:

"Clerk," in relation to a local authority, means, where the local authority is a county council, the clerk of the council, and where the local authority is a borough council, the town clerk of the borough:

"Commissioners" means the Commissioners in Lunacy:

"Contingent right," as applied to lands, includes a contingent and executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent:

"Convey" and "conveyance" include the performance of all formalities required to the validity of conveyances by married women and tenants in tail under the "Act for the abolition of fines and recoveries, and for the substitution of more simple modes of assurance," and also surrenders and other acts which a tenant of copyhold lands can perform preparatory to or in aid of a complete assurance of such copyhold lands:

3 & 4 Will. 4, c. 74.

"County," for the purpose of the powers exerciseable by justices of a county, does not include a county of a city or county of a town (except the City of London), but includes any county, riding, division, part or liberty of a county having a separate court of quarter sessions:

"County borough" has the same meaning as in the Local Government Act, 1888:

51 & 52 Vict. c. 41.

"Criminal lunatic" has the same meaning as in the Criminal Lunatics Act, 1884:

47 & 48 Vict. c. 64.

"District asylum" means an asylum provided by two or more counties in union, or by any county or counties in union with any borough or boroughs:

"Dividends" includes interest and other annual produce:

"Guardians" means guardians appointed under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or other body of persons performing under any local Act the like functions as guardians under the Poor Law Amendment Act, 1834:

4 & 5 Will. 4, c. 76.

"Hospital" means any hospital or part of a hospital or other house or institution (not being an asylum) wherein lunatics

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are received and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients:

"Inquisition" includes an order, certificate, or verdict operating as an inquisition:

"Institution for lunatics" means an asylum, hospital, or licensed house:

"Justice" means a justice of the peace:

"Land" includes an undivided share of land:

"Lease" includes underlease:

"Lunatic" means an idiot or person of unsound mind:

"Magistrate" means a stipendiary magistrate and any magistrate appointed to act at any of the police courts of the metropolis:

"Manager" in relation to an institution for lunatics means the superintendent of an asylum, the resident medical officer or superintendent of a hospital, and the resident licensee of a licensed house:

"Masters" means the Masters in Lunacy:

"Medical officer" means, in the case of an asylum, the medical superintendent, or if the superintendent is not a medical practitioner the resident medical officer of the asylum, in the case of a hospital the superintendent, and in the case of a licensed house the resident medical practitioner, or if none, the medical practitioner who visits the house as the medical attendant thereof:

"Medical practitioner" means a medical practitioner duly registered under the Medical Act, 1858, and the Acts amending the same, and the Medical Act, 1886: 21 & 22 Vict. c. 90. 49 & 50 Vict. c. 48.

"Mortgage" includes every estate, interest, or property in real or personal estate, which is a security for money or money's worth:

"Next-of-kin" includes heir-at-law, and the persons entitled under the statutes for the distribution of the estates of intestates:

"Pauper" means a person wholly or partly chargeable to a union, county, or borough:

Section 341.

"Paymaster-General" includes the Assistant Paymaster-General for Supreme Court business:

"Prescribed" means prescribed by this Act or by any rules under this Act:

"Private patient" means a patient who is not a pauper:

"Property" includes real and personal property, whether in possession, reversion, remainder, contingency, or expectancy, and any estate or interest, and any undivided share therein:

"Public department" means the Treasury, the Admiralty, and a Secretary of State, and any other public department of the Government:

"Quarter sessions" includes general sessions:

"Quarter sessions borough" means a borough having a separate court of quarter sessions:

"Reception order" means an order or authority made or given before or after the commencement of this Act for the reception of a lunatic, whether a pauper or not, in an institution for lunatics or as a single patient, and includes an urgency order:

"Relative" means a lineal ancestor or lineal descendant, or a lineal descendant of an ancestor not more remote than great-grandfather or great-grandmother:

"Stock" includes any fund, annuity, or security transferable in books kept by any company or society, or by instrument of transfer alone, or by instrument of transfer, accompanied by other formalities, and any share or interest therein, and also shares in ships registered under the Merchant Shipping Act, 1854:

17 & 18 Vict. c. 104.

"Transfer" includes assignment, payment, and other disposition, and the execution and performance of every assurance and act to complete a transfer:

"Trust" and "trustee" include implied and constructive trusts, and cases where the trustee has some beneficial interest, and also the duties incident to the office of personal representative of a deceased person, but not the duties incident to an estate conveyed by way of mortgage:

"Union" means any parish or union of parishes for which there is a separate board of guardians:

"Visiting committee" means a committee of visitors of an asylum appointed under this Act: Section 341.

"Workhouse" includes an asylum provided for reception and relief of the insane under the Metropolitan Poor Act, 1867, and the managers of every such asylum shall exercise the powers and perform the duties by this Act conferred and imposed upon the guardians of the union to which a workhouse belongs. 30 Vict. c. 6.

342. The Acts mentioned in the Fifth Schedule are hereby repealed to the extent set forth in the third column of the same schedule. Repeal.

Provided that this repeal shall not affect any jurisdiction or practice established, confirmed, or transferred, or salary or compensation or superannuation secured, by or under any enactment repealed by this Act.

SCHEDULES.

THE SECOND SCHEDULE.

* * * * *

FORM 8.

Certificate of Medical Practitioner.

Sections 4, 11, 16, 23, 24.

In the matter of *A.B.* of(*a*) in the county(*b*) of ,(*c*)
an alleged lunatic.

I, the undersigned *C.D.*, do hereby certify as follows:

1. I am a person registered under the Medical Act, 1858, and I am in the actual practice of the medical profession.

2. On the day of , 18 , at(*d*) in the county(*e*) of [separately from any other practitioner](*f*), I personally examined the said *A.B.* and came to the conclusion that he is a [lunatic, an idiot, or a person of unsound mind] and a proper person to be taken charge of and detained under care and treatment.

3. I formed this conclusion on the following grounds, viz.:—

(*a*) Facts indicating insanity observed by myself at the time of examination,(*g*) viz.:—

(*b*) Facts communicated by others, viz.(*h*):—

[*If an urgency certificate is required it must be added here. See* Form 9.]

4. The said *A.B.* appeared to me to be [*or* not to be] in a fit condition of bodily health to be removed to an asylum, hospital, or licensed house.(*i*)

Schedule 2.

FORM 8.

5. I give this certificate having first read the section of the Act of Parliament printed below.

Dated . (Signed) *C.D.*, of(*k*) .

(*a*) Insert residence of patient.
(*b*) City or borough, as the case may be.
(*c*) Insert profession or occupation, if any.
(*d*) Insert the place of examination, giving the name of the street, with number or name of house, or should there be no number the Christian and surname of occupier.
(*e*) City or borough, as the case may be.
(*f*) Omit this where only one certificate is required.
(*g*) If the same or other facts were observed previous to the time of the examination, the certifier is at liberty to subjoin them in a separate paragraph.
(*h*) The names and Christian names (if known) of informants to be given, with their addresses and descriptions.
(*i*) Strike out this clause in case of a private patient whose removal is not proposed.
(*k*) Insert full postal address.

Extract from section 317 *of the Lunacy Act*, 1890.

Any person who makes a wilful mis-statement of any material fact in any medical or other certificate or in any statement or report of bodily or mental condition under this Act, shall be guilty of a misdemeanor.

Sections 11, 28.

FORM 9.

Statement accompanying Urgency Order.

I certify that it is expedient for the welfare of the said *A.B.* [*or* for the public safety, *as the case may be*] that the said *A.B.* should be forthwith placed under care and treatment.

My reasons for this conclusion are as follows : [*state them*].

Section 24.

FORM 10.

Certificate as to Pauper Lunatic in a Workhouse.

I, the undersigned Medical Officer of Workhouse of the Union hereby certify that I have carefully examined into the state of health and mental condition of *A.B.*, a pauper in the said workhouse, and that he is in my opinion a lunatic, and a proper person to be allowed to remain in the workhouse as a lunatic, and that the accommodation in the workhouse is sufficient for his proper care and treatment separate from the inmates of the workhouse not lunatics [*or*, that his condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate].

The grounds for my opinion that the said *A.B.* is a lunatic are as follows :

Dated

(Signed)
Medical Officer of the Workhouse.

Schedule 2.

FORM 11.

FORM 11.

Order for Detention of Lunatic in Workhouse.

Section 24.

I, the undersigned *C.D.*, a justice of the peace for being satisfied that *A.B.*, a pauper in the workhouse of the is a lunatic [*or* idiot or person of unsound mind] and a proper person to be taken charge of under care and treatment in the workhouse, and being satisfied that the accommodation in the workhouse is sufficient for his proper care and treatment separate from the inmates of the workhouse not lunatics [*or*, that his condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate] hereby authorise you to take charge of, and, if the workhouse medical officer shall certify it to be necessary, to detain the said *A.B.* as a patient in your workhouse. Subjoined is a statement of particulars respecting the said *A.B.*

(Signed) *C.D.*,
A justice of the peace
for

Dated

To the Master of the
Workhouse
of the

Statement of Particulars.

Name of patient and Christian name at length.
Sex and age.
Married, single, or widowed.
Condition of life and previous occupation (if any).
Religious persuasion as far as known.
Previous place of abode.
Whether first attack.
Age (if known) on first attack.
When and where previously under care and treatment.
Duration of existing attack.
Supposed cause.
Whether subject to epilepsy.
Whether suicidal.
Whether dangerous to others.
Whether any near relative has been afflicted with insanity.
Name and Christian name and address of nearest known relative of the patient and degree of relationship if known.

I certify that to the best of my knowledge the above particulars are correct.

[To be signed by the relieving officer.]

Schedule 2.

FORM 12.
Section 16.

FORM 12.

Order for Reception of a Pauper Lunatic or Lunatic wandering at large.

I, *C.D.*, having called to my assistance *E.F.*, of , a duly qualified medical practitioner, and being satisfied that *A.B.* [*describing him*] is a pauper in receipt of relief [*or* in such circumstances as to require relief for his proper care and maintenance], and that the said *A.B.* is a lunatic [*or* an idiot, *or* a person of unsound mind] and a proper person to be taken charge of and detained under care and treatment, *or* that *A.B.* [*describing him*] is a lunatic, and was wandering at large, and is a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said *A.B.* as a patient into your asylum [*or* hospital, *or* house]. Subjoined is a statement of particulars respecting the said *A.B.*

(Signed) *C.D.*,
A justice of the peace for .

Dated the day of one thousand eight hundred and

To the superintendent of the asylum for the county [*or* borough] of [*or* the lunatic hospital of ; *or E.F.* proprietor of the licensed house of ; describing the asylum, hospital, or house].

Note.—Where the order directs the lunatic to be received into any asylum, other than an asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, or into a registered hospital or licensed house, it shall state that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum ; or (as the case may be) the special circumstances, by reason whereof the lunatic cannot conveniently be taken to an asylum for such first-mentioned county or borough.

Statement of Particulars.

STATEMENT of particulars referred to in the above or annexed order.

The following is a statement of particulars relating to the said *A.B.** :—

Name of patient, with Christian name at length.
Sex and age.
†Married, single, or widowed.
†Rank, profession, or previous occupation (if any).
†Religious persuasion.
Residence at or immediately previous to the date hereof.
†Whether first attack.
Age on first attack.
When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.
†Duration of existing attack.
Supposed cause,

Schedule 2.
FORM 12.

Whether subject to epilepsy.
Whether suicidal.
Whether dangerous to others, and in what way.
Whether any near relative has been afflicted with insanity.
Union to which lunatic is chargeable.
Names, Christian names, and full postal addresses of one or more relatives of the patient.
Name of the person to whom notice of death to be sent, and full postal address if not already given.

(Signed) *G.H.*
To be signed by the Relieving Officer or Overseer.

* If any particulars are not known, the fact is to be so stated.
† [Where the patient is in the order described as an idiot omit the particulars marked].

* * * * *

Section 13.

FORM 15.

Order for Reception of a Lunatic not under proper care and control, or cruelly treated or neglected, to be made by a Justice appointed under the Lunacy Act, 1890.

I, the undersigned *C.D.*, being a justice for specially appointed under the Lunacy Act, 1890, having caused *A.B.* to be examined by two duly qualified medical practitioners, and being satisfied that the said *A.B.* is a lunatic not under proper care and control [*or* is cruelly treated or neglected by the person having the care or charge of him], and that he is a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said *A.B.* as a patient into your asylum [*or* hospital *or* house]. Subjoined is a statement of particulars respecting the said *A.B.*

(Signed)
A justice of the peace for
appointed under the above-mentioned Act.

Dated

To the superintendent of the asylum for , or of the lunatic hospital of , or the resident licensee of the licensed house at .

Note.—Where the order directs the lunatic to be received into any asylum, other than an asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, or into a registered hospital or licensed house, it shall state, that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum; or (as the case may be) the special circumstances, by reason whereof the lunatic cannot conveniently be taken to an asylum for such first-mentioned county or borough.

Schedule 2.

FORM 15.

Statement of Particulars.

STATEMENT of particulars referred to in the above or annexed order.

The following is a statement of particulars relating to the said *A.B.* (*) :—

Name of patient, with Christian name at length.
Sex and age.
†Married, single, or widowed.
†Rank, profession, or previous occupation (if any).
†Religious persuasion.
Residence at or immediately previous to the date hereof.
†Whether first attack.
Age on first attack.
When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.
†Duration of existing attack.
Supposed cause.
Whether subject to epilepsy.
Whether suicidal.
Whether dangerous to others, and in what way.
Whether any near relative has been afflicted with insanity.
Union to which lunatic is chargeable.
Names, Christian names, and full postal addresses of one or more relatives of the patient.
Name of the person to whom notice of death to be sent, and full postal address if not already given.

(Signed)

To be signed by the relieving officer, overseer, or other person on whose information the order is made.

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* If any particulars are not known, the fact is to be so stated.

† [Where the patient is in the order described as an idiot omit the particulars marked].

* * * * *

Schedule 5.

THE FIFTH SCHEDULE.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
4 & 5 Will. 4, c. 76	An Act for the amendment and better administration of the Laws relating to the Poor in England and Wales.	Section forty-five.
8 & 9 Vict. c. 100 -	An Act for the regulation of the care and treatment of lunatics.	The whole Act.
13 & 14 Vict. c. 60 -	The Trustee Act, 1850 -	Sections three, four, five, six, and fifty-six. Sections twenty, twenty-six, twenty-seven, twenty-eight, thirty-one, forty, forty-one, forty-two, forty-four, forty-five, fifty-one, fifty-two, and fifty-three, so far as they relate to "the Lord Chancellor entrusted as aforesaid." Except so far as the above sections relate to Ireland.
15 & 16 Vict. c. 48 -	An Act for the amendment of the law respecting the property of lunatics.	The whole Act.
15 & 16 Vict. c. 55 -	An Act to extend the provisions of the Trustee Act, 1850.	Sections six and seven, so far as relates to the Lord Chancellor entrusted as aforesaid, and sections ten and eleven. Except so far as the above sections relate to Ireland.
16 & 17 Vict. c. 70 -	The Lunacy Regulation Act, 1853.	The whole Act.
16 & 17 Vict. c. 96 -	An Act to amend an Act passed in the ninth year of Her Majesty for the regulation of the care and treatment of lunatics.	The whole Act.
16 & 17 Vict. c. 97 -	The Lunatic Asylums Act, 1853.	The whole Act.

Schedule 5.

THE FIFTH SCHEDULE—*continued.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
18 Vict. c. 13 - -	An Act to amend and explain the Lunacy Regulation Act, 1853.	The whole Act.
18 & 19 Vict. c. 105	An Act to amend the Lunatic Asylums Act, 1853, and the Acts passed in the ninth and seventeenth years of Her Majesty for the Regulation of the Care and Treatment of Lunatics.	The whole Act.
19 & 20 Vict. c. 87 -	An Act to amend the Lunatic Asylums Act, 1853.	The whole Act.
23 & 24 Vict. c. 127	An Act to amend the law relating to attorneys, solicitors, proctors, and certificated conveyancers.	Section twenty-nine.
24 & 25 Vict. c. 55 -	An Act to amend the laws regarding the removal of the poor, and the contribution of parishes to the common fund in unions.	Section seven.
25 & 26 Vict. c. 86 -	The Lunacy Regulation Act, 1862.	The whole Act.
25 & 26 Vict. c. 111	The Lunacy Acts Amendment Act, 1862.	The whole Act.
26 & 27 Vict. c. 110	The Lunacy Acts Amendment Act, 1863.	The whole Act.
28 & 29 Vict. c. 80 -	The Lunacy Acts Amendment Act, 1865.	The whole Act.
30 Vict. c. 6 - -	The Metropolitan Poor Act, 1867.	In section thirty, the words "and every such asylum" to the end of the section.
30 & 31 Vict. c. 87 -	The Court of Chancery (Officers) Act, 1867.	Section thirteen.
30 & 31 Vict. c. 106	The Poor Law Amendment Act, 1867.	Section twenty-two, except as regards persons suffering from delirium tremens, or from bodily disease of a contagious or infectious character.

THE FIFTH SCHEDULE—*continued.* Schedule 5.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
31 & 32 Vict. c. 122	The Poor Law Amendment Act, 1868.	Section forty-three.
34 & 35 Vict. c. 14	The County Property Act, 1871.	Section two.
38 & 39 Vict. c. 77	The Supreme Court of Judicature Act, 1875.	Section seven. In section twenty-six, the words "(including the percentage on estates of lunatics)" and the words "(including the masters and other officers in lunacy)."
45 & 46 Vict. c. 82	The Lunacy Regulation Amendment Act, 1882.	The whole Act.
48 & 49 Vict. c. 52	The Lunacy Acts Amendment Act, 1885.	The whole Act.
51 & 52 Vict. c. 41	The Local Government Act, 1888.	Section thirty-two, sub-section three, sub-clause (*o*); section eighty-six, sub-sections one, two, three, four, six, seven, and eight.
52 & 33 Vict. c. 41	The Lunacy Acts Amendment Act, 1889.	The whole Act.

APPENDIX.

RULES MADE BY THE COMMISSIONERS IN LUNACY WITH THE APPROVAL OF THE LORD CHANCELLOR.

Rule 1.

Books to be kept.

1.—(1) There shall be kept in every institution for lunatics—

(*a*) a Visitors' Book; (*b*) a Register of Patients; (*c*) a Medical Journal; (*d*) a Register of Mechanical Restraint; (*e*) a Medical Case Book; (*f*) a Register of Removals, Discharges, and Deaths.

(2) There shall also be kept in every hospital and licensed house a Patients' Book and a Register of Voluntary Boarders. (Sections 78 (4), 194 (3), 197, 229.)(*a*)

(3) There shall be kept in every house where a single patient is detained a Medical Journal and a Register of Mechanical Restraint. (Sections 40 (4), 199 (3).)

(4) In every institution for lunatics in which private and pauper patients are admitted there shall be kept a separate Register of Patients, Medical Journal, and Register of Removals, Discharges, and Deaths, for each class of patients. (Sections 241, 271.)

(5) There shall be kept in every workhouse a Register of Mechanical Restraint. (Section 40 (4), (5).)

Register of Patients.

2. The Register of Patients shall be in the Form 1 in the Schedule (*post*, p. 755).

Medical Journal.

3.—(1) The Medical Journal to be kept in institutions for lunatics shall be in the Form 2 in the Schedule (*post*, p. 756.)

(2) The Medical Journal in the case of single patients shall be in the Form 3 in the Schedule. (Section 199 (3), and Form 3, *post*, p. 757.)

Register of Mechanical Restraint.

4. The Register of Mechanical Restraint shall be in the Form 4 in the Schedule. (Section 40, and Form 4, *post* p. 758.)

Register of Boarders.

5. The Register of Voluntary Boarders shall be in the Form 5 in the Schedule. (Section 229, and Form 5, *post*, p. 758.)

Register of Removals, Discharges, and Deaths.

6. The Register of Removals, Discharges, and Deaths shall be in the Form 6 in the Schedule (*post*, p. 759.)

(*a*) The references in brackets throughout these Rules are not part of the original Rules, but are inserted for purposes of convenience.

Rule 7.

Notices to be sent on reception.

7.—(1) The clerk of every asylum and the manager of every hospital and licensed house shall, immediately on the reception of a person as a lunatic, make an entry with respect to such lunatic in the Register of Patients according to the prescribed form, and containing the particulars therein specified, except as to the form of disorder.

(2) The entry as to the form of disorder shall be supplied by the medical officer of every asylum within one month, and by the medical officer of every hospital or house within seven days after the reception of a patient.

(3) The clerk of every asylum and the manager of every hospital or licensed house shall, in the case of a person not a pauper, within one clear day, and in the case of a pauper, after the second and before the end of the seventh day after the patient's admission, send to the Commissioners a notice of admission in the Form 7 in the Schedule (*post*, p. 769), and also a copy of the reception order and medical certificate or certificates upon which the same was made, and in the case of reception orders upon petition a copy of the petition and statement of particulars, and shall, in every case after the second and before the end of the seventh clear day after the patient's admission, send to the Commissioners a medical statement to be made and signed by the medical officer of the institution, according to the Form 8 in the Schedule. (Section 316, and Form 8, *post*, p. 760.)

(4) The manager of every licensed house within the jurisdiction of visitors, shall also within the times limited by this rule, send the like documents to the clerk of the visitors.

(5) Every person who has charge of a single patient shall, within the times limited by this rule, as regards patients not paupers, send to the Commissioners the like documents concerning such single patient, and shall, with the notice of admission, send a statement of the Christian and surname and occupation of the occupier of the house and of the person who has charge of the patient. The medical statement shall be made and signed by the medical practitioner who visits the patient.

Form of report to be sent at the end of a month after reception.

8. The report to be sent to the Commissioners by the medical officer of every institution for lunatics, and the medical attendant of every single patient, at the expiration of one month after the reception of a private patient, shall be in the Form 9 in the Schedule. (Section 39, and Form 9, *post*, p. 761.)

Who to keep Medical Journal and Case Book.

9. The Medical Journal and Case Book to be kept in every institution for lunatics shall be kept by the medical officer thereof, and every entry made therein respectively shall be signed by the person making the same.

How often entries to be made in Medical Journal.

10. The prescribed entries in the Medical Journal to be kept in institutions for lunatics shall be made once in every week (see also section 201 (2), *ante*, p. 710), or in the case of a licensed house at which visits by a medical practitioner at more distant intervals than once a week are permitted, at each visit.

Rule 11.

Entries in Case Books in hospitals and licensed houses.

11. There shall be entered in the Medical Case Book to be kept in institutions for lunatics the following particulars :—

(*a*) A statement of the name, age, sex, and previous occupation of the patient, and whether married, single, or widowed.

(*b*) An accurate description of the external appearance of the patient upon admission :—of the habit of body and temperament; appearance of eyes, expression of countenance, and any peculiarity in form of head ; physical state of the vascular and respiratory organs, and of the abdominal viscera, and their respective functions ; state of the pulse, tongue, skin, &c. ; and the presence or absence, on admission, of bruises or other injuries.

(*c*) A description of the phenomena of the mental disorder :—the manner and period of the attack, with a minute account of the symptoms, and the changes produced in the patient's temper or disposition; specifying whether the malady displays itself by any, and what illusions, or irrational conduct, or morbid or dangerous habits or propensities; whether it has occasioned any failure of memory or understanding ; or is connected with epilepsy, or ordinary paralysis, or symptoms of general paralysis, such as tremulous movements of the tongue, defect of articulation, or weakness or unsteadiness of gait.

(*d*) Every particular which can be obtained respecting the previous history of the patient :—what are believed to have been the predisposing and exciting causes of the attack; what the previous habits, active or sedentary, temperate or otherwise ; whether the patient has experienced any former attacks, and if so, at what periods; whether any relatives have been subject to insanity; and whether the present attack has been preceded by any premonitory symptoms, such as restlessness, unusual elevation or depression of spirits, or any remarkable deviation from ordinary habits and conduct; and whether the patient has undergone any, and what, previous treatment, or has been subjected to personal restraint.

(*e*) An accurate record of the medicines administered and other remedies employed, with the results.

(*f*) An accurate record of all injuries and accidents.

How often entries to be made in Case Book.

12. The prescribed entries shall be made in the Case Book to be kept in every institution for lunatics at least once in every week during the first month after reception, and oftener when the nature of the case requires it. Afterwards in recent or curable cases such entries shall be made at least once in every month, and in chronic cases, subject to little variation, once in every three months.

Rule 13.

13. The medical officer of every institution for lunatics shall, whenever required so to do by notice in writing signed by the Secretary of the Commissioners, send to the Commissioners a correct copy of all the entries, or of any particular entries or entry, in the Medical Case Book, relative to any specified patient who is, or may have been, confined in the institution. (Section 320.)

Copies of Case Book entries.

14.—(1) The medical attendant of a single patient shall, as soon as possible after the admission of the patient, enter on blank pages to be left at the beginning of the Medical Journal, a sketch of the previous history of the case, and full particulars of the mental and bodily condition of the patient on admission.

Duties of medical attendant of single patient.

(2) Such medical attendant shall also at each visit enter in the Medical Journal the date of the visit, and full particulars of the mental and bodily condition of the patient, and a statement as to the condition of the house. (Section 44.)

(3) If the Commissioners allow a single patient to be visited less often than once in every two weeks, and the patient is in the charge of a medical practitioner, such practitioner shall once at least in every two weeks enter in the Medical Journal full particulars of the mental and bodily condition of the patient, with the date of the entry. (*Ibid.*)

(4) Every entry to be made under this rule shall be signed by the person who makes the same. (*Ibid.*)

15. Every medical practitioner who visits a single patient, or under whose charge a single patient is, shall on the tenth of January, or within seven days from that time, in every year report in writing to the Commissioners the state of health, bodily and mental, of the patient, with such other circumstances as he may deem necessary to communicate. (Sections 44 and 45.)

Medical reports upon single patients.

16. The manager of every institution for lunatics, and every person having charge of a single patient, shall at the end of every quarter send to the Commissioners a copy of every entry in the Register of Mechanical Restraint made during the quarter. (Section 40 (4).)

Copies of entries in Register of Mechanical Restraint.

17. The Register of Voluntary Boarders to be kept in licensed houses and hospitals shall be kept by the manager thereof. (Section 229, and section 231 (8).)

Who to keep Register of Voluntary Boarders.

18. The manager of every licensed house and hospital shall prepare and keep up an accurate list of the private patients for the time being on the books of the house or hospital, with the rates of payment made for the maintenance and care and treatment of such patients respectively; and such list shall be at all times accessible to the Commissioners or Commissioner visiting the house or hospital,

Schedule of rates of payments for private patients.

Rule 18.

and, in the case of a house licensed by justices, to the visitors of such house. (Section 194 (1), (*f*), and section 196.)

Transfer of patients and leave of absence.

19.—(1) When application is made to the Commissioners for their consent to the transfer of a private patient from one institution for lunatics to another, the medical officer of the institution from which the patient is to be removed shall furnish the Commissioners with a report as to the patient's mental and bodily condition, and fitness for transfer. (Sections 58, 317 (2).)

(2) When application is made for the grant by the Commissioners or by visitors of leave of absence of a private patient from an institution for lunatics, or of a single patient from the house in which he is received, either for the benefit of the patient's health or on trial, it shall be accompanied by a recommendation from the medical officer of the institution or the medical attendant of the patient. (Section 55, *ante*, p. 700.)

Notices to be sent of remarks on visitation.

20.—(1) The clerk of every asylum and the manager of every hospital or licensed house shall, within three days after each visit of one or more of the Commissioners, send to the office of the Commissioners, and in the case of a house licensed by justices, also to the clerk of the visitors, copies of all entries and remarks made by any visiting Commissioner or Commissioners at such visit in any of the books of the institution. (Sections 187, 191, and 320.)

(2) The manager of every hospital and licensed house shall also, within three days after each visit by any visitor, send to the office of the Commissioners and to the clerk to such visitors a true and perfect copy of all entries and remarks made by such visitors at such visit in any of the books of the hospital or house. (Sections 193, 194, 196, 197, and 320.)

Notice of dismissal of servants.

21. The clerk of every asylum, and the manager of every hospital or licensed house, shall within one week after the dismissal for misconduct of any person employed in connexion with the care of the patients therein, send notice in writing to the Commissioners of the dismissal and its cause. (Sections 226 and 276 (3).)

Entries to be made on removal, discharge, or death.

22. The clerk of every asylum, and the manager of every hospital and licensed house, shall, within two clear days after the removal, discharge, or death of any patient, make an entry thereof in the Register of Patients, and also in the Register of Removals, Discharges, and Deaths, according to the prescribed form. (Sections 58, 59 (1), 61, 64, 65, 72, 73, 75, 77—79, 84, 316.)

Notices to be sent on removal, discharge, escape, and recapture.

23.—(1) The clerk of every asylum, and the manager of every hospital or licensed house, and the person having charge of a single patient, shall, within three clear days after the removal, discharge, escape, or recapture of a patient, send written notice thereof to the Commissioners, and also in the case of a lunatic so found by inquisition to the Chancery Visitors. (Section 316.)

(2) In the case of a licensed house within the jurisdiction of any visitors, the like notice shall, within the time aforesaid, also be sent by the manager of the house to the visitors. (*Ibid.*) Rule 23.

(3) Notices of removal and discharge shall be in the Forms 10 and 11 in the Schedule (*post*, p. 761). Notices of escape and recapture shall be in the Forms 12 and 13 in the Schedule (*post*, p. 762).

(4) Where upon the discharge of a pauper lunatic from an institution for lunatics the medical officer of the institution certifies that the lunatic has not recovered, and is a proper person to be kept in a workhouse as a lunatic, a copy of the certificate shall accompany the notice of discharge. (Section 25, *ante*, p. 695.)

(5) Notice of escape shall state the Christian name and surname of the patient, his state of mind, and the circumstances attending the escape. (Sections 85—89.)

(6) Notice of recapture shall state when the patient was brought back, and under what circumstances, and whether with or without a fresh reception order or certificates. (*Ibid.*)

Statement and notice as to death.

24.—(1) In the case of the death of a patient, not being a patient in a workhouse, a statement shall be prepared and signed setting forth—

(*a*) The name, sex, and age of the patient ;

(*b*) Whether married, single, or widowed ;

(*c*) The profession or occupation of the patient ;

(*d*) His place of abode immediately prior to being placed under care and treatment, if known ;

(*e*) The time and cause of, and the circumstances attending, the death ;

(*f*) The duration of the disease of which the patient died ;

(*g*) The name or names of any person or persons present at the death.

(2) The statement shall be prepared and signed, in the case of a death in an asylum, by the clerk and medical officer of the asylum, and in any other case, by the medical person or persons who attended the patient in his last illness ; and shall, within forty-eight hours of the death, be sent to the coroner of the district by the manager of the institution for lunatics in which the patient died, or by the person having charge of the single patient. (Sections 84, 319.)

(3) In the case of a lunatic dying in an institution for lunatics, the medical officer of the institution shall, within three days after the death, enter a copy of the statement in the Medical Case Book, and in the case of a single patient the person having charge of him shall, within the like period, enter a copy of the statement in the Medical Journal. (Section 318, *ante*, p. 730.)

Rule 24.

(4) The clerk of the asylum, or the manager of the hospital or house, or upon the death of a single patient, the person who had charge of him, shall, within forty-eight hours of the death of a patient, send notice thereof in the Form 14 in the Schedule (*post*, p. 762)—

(*a*) To the Commissioners ;

(*b*) To the relation or one of the relations named in the statement accompanying the order for the reception of the patient ;

(*c*) To the registrar of deaths for the district;(*a*)

(*d*) In the case of a licensed house within the jurisdiction of any visitors, also to the clerk of the visitors ;

(*e*) In the case of a lunatic so found by inquisition, also to the Chancery Visitors ;

(*f*) If the patient was not a pauper, also to the person upon whose petition the order for the admission of the patient was made, or who made the last payment on account of the patient ;

(*g*) If the patient was a pauper, also to the relieving officer of the union or the clerk of the peace of the county or borough to which the patient was chargeable.

Half-yearly lists of patients in asylum to be made up.

25.—(1) The clerk of every asylum shall, on the first of January and the first of July in every year, prepare a list, made up to those dates, of all pauper lunatics then in the asylum, according to the Form 15 in the Schedule (*post*, p. 763).

(2) Within fifteen days after the list is prepared, the clerk shall lay a copy before the committee of visitors, and shall send a copy to the Commissioners and to the clerk of each local authority to which the asylum belongs, to be laid before the local authority. (Section 320.)

(3) The clerk of every asylum receiving private patients shall, on the first of January and the first of July in every year, prepare a list, made up to those dates, containing the Christian names and surnames of all the private patients then in the asylum, according to the Form 16 in the Schedule (*post*, p. 763) ; and shall, within fifteen days after the list is prepared, send a copy to the Commissioners, and shall, within the same time, transmit to the clerk of each local authority for the purpose aforesaid, a certificate under his hand of the number of private patients of each sex. (Sections 241, 255, 271, 320.)

(*a*) See also sections 10, 20, and 48 of the Births and Deaths Registration Act, 1874, 37 & 38 Vict. c. 88.

Rule 26.

Report of visiting committee to be sent to Commissioners.

26. The clerk to the committee of visitors of every asylum shall, within twenty-one days after their annual report has been laid before the local authority by the committee of visitors, transmit a copy to the Commissioners. (Sections 190 and 320.)

Statement of condition of pauper lunatics.

27. The manager of every asylum shall once at least in each half-year send to the guardians of every union a statement of the mental and bodily condition of every pauper lunatic chargeable to the union. (Sections 201, 320.)

Quarterly return of pauper lunatics not in an institution for lunatics.

28.—(1) In the case of pauper lunatics not in an institution for lunatics, the medical officer of every district of a union and of every workhouse shall, within seven days after every thirty-first of March, thirtieth of June, thirtieth of September, and thirty-first of December, make a return of all such lunatics visited by him during the preceding quarter; or if there were no such lunatics within the district or workhouse of which he is medical officer, shall make a return to that effect. (Section 202, and section 320.)

(2) Such returns shall be in the Forms 17 and 18 in the Schedule (*post*, pp. 764, 765), and shall, within the time aforesaid, be delivered or sent to the clerk to the guardians of the union to which the return relates. (*Ibid.*)

(3) The clerk receiving the return shall, within three days after the receipt thereof, make a copy thereof, and shall, within the same period, send the return to the Commissioners, and the copy to the clerk to the committee of visitors of the asylum for the county or borough in which the union for which he is clerk is wholly or partly situate. (*Ibid.*)

Annual return by clerks to boards of guardians.

29. The clerk of the board of guardians of every union shall, on the first of January in every year, or as soon after as possible, make out and sign a complete list in the Form 19 in the Schedule (*post*, p. 766), made up to that date, of all lunatics chargeable to the union, and shall, on or before the first of February following, send a copy of the list to the following authorities:—

(*a*) The Local Government Board;

(*b*) The Commissioners;

(*c*) The committee of visitors of the asylum of the county or borough, or each county or borough, in which the union is wholly or partly situate;

(*d*) The clerk of the local authority within the area whereof the union is wholly or partly situate, to be laid before the local authority. (Section 320.)

Entries to be clear and distinct.

30. All entries to be made under these rules shall be made in a manner so clear and distinct as to admit of being easily referred to and extracted whenever the Commissioners shall so require. (Section 318, *ante*, p. 730.)

Rule 31.

Returns and information to be furnished by managers.

31. The manager of every institution for lunatics shall furnish to the Commissioners, at such times and in such form as they may from time to time prescribe, such annual and other returns and information of or in any way relating to the patients of or boarders in the institution, as the Commissioners may, in their discretion, require. (Sections 318, 320, *ante*, p. 730.)

Applications for licenses.

32.—(1) Every applicant for a licence for a house shall at least fourteen clear days before a quarterly or other meeting of the Commissioners, or before a quarter or special sessions of the licensing justices, give notice of the application—

(*a*) If the house is within the immediate jurisdiction of the Commissioners, to the Commissioners;

(*b*) If elsewhere, to the clerk of the peace for the county or borough in which it is situate. (Section 207.)

(2) The notice shall contain—

(*a*) The Christian and surname, place of abode, and occupation of the proposed licensee;

(*b*) The Christian and surname of the person who is to reside in the house; and if the house has not been previously licensed, a full description of the estate or interest of the proposed licensee therein. (*Ibid.*, and section 214.)

(3) If the house has not been previously licensed, the applicant shall send with his notice the following documents:—

(*a*) A plan of all houses and buildings to be included in the licence, drawn upon a scale of eight feet to an inch, with a description of the situation of the house, and the length, breadth, and height of, and a reference by a figure or letter to, every room therein, distinguishing the rooms to be appropriated to patients from those to be occupied by the family and domestic servants of the resident licensee.

(*b*) A statement of the quantity of land not covered by building annexed to the house, and appropriated to the exclusive use, exercise, and recreation of the patients, with a plan thereof drawn to the scale of 100 feet to an inch.

(*c*) A statement of the number of patients of each sex to be received, and of the means by which the sexes are to be kept apart. (*Ibid.*, and section 210.)

(4) The notice and accompanying documents when sent to a clerk of the peace, shall by him be laid before the justices when they consider the application for the licence. (*Ibid.*)

(5) If a house not within the immediate jurisdiction of the Commissioners has not been previously licensed, copies of the notice and accompanying documents shall, at least thirty days before the quarter or

special sessions at which the application is to be considered, be sent by the applicant to the Commissioners. (*Ibid.*) **Rule 32.**

On renewal of licence, statement to be furnished of the number and class of patients detained.

33.—(1) Every person applying for the renewal of a licence shall send to the Commissioners, and if his application is to any justices, shall also send to the clerk of the peace for the county or borough a statement, signed by the applicant, containing the names and number of the patients of each sex then detained in such house, and distinguishing between private and pauper patients. (Section 207.)

(2) Copies of all entries made by the visiting Commissioners in the books of a licensed house since the last renewal of the licence shall be laid before the justices upon every renewal of a licence. (*Ibid.*)

Notice of alterations and additions to licensed houses.

34.—(1) Before any alteration or addition is made to, in, or about a licensed house, or its appurtenances, the licensee shall send notice in writing of the proposed alteration or addition to the Commissioners, or, in the case of a house licensed by justices of a county or borough, to the clerk of the peace of the county or borough. (Section 213.)

(2) Such notice shall be accompanied by a full description of the proposed alteration or addition, with plans drawn to a scale of eight feet to an inch. (*Ibid.*)

(3) Every clerk of the peace to whom a notice is given under this rule shall within three days after receiving the same send the notice, together with the accompanying description and plans, or copies thereof respectively, to the Commissioners. (Section 320.)

Plans of hospitals.

35.—(1) With every application for the registration of a hospital for the reception of lunatics the following plans shall be sent to the Commissioners:—

(*a*) A general plan, to the scale of one hundred feet to an inch, of the land proposed to be occupied with the hospital, with a block plan of the buildings drawn thereon, and showing the positions and area of the exercise grounds, gardens, and roads of approach.

(*b*) Plans of the basement, ground, and every other floor of the principal buildings and offices, and also of the roofs, with the dimensions of the rooms and the thicknesses of the walls.

(*c*) Elevations of the fronts and sides of the principal buildings and offices.

(*d*) Transverse and longitudinal sections sufficient to show the heights of the various rooms in the buildings.

(*e*) A general plan showing the courses of the drains and the manner in which the sewage will be disposed of. (Sections 231, 233, 320.)

(2) The plans (*b*) to (*e*) inclusive shall be drawn to a scale of eight feet to an inch. (*Ibid.*)

Rule 35.

(3) There shall also be furnished with every application a concise description of the hospital buildings, and of the systems of heating, lighting, and ventilation adopted, and the plans shall show the manner in which the various portions of the buildings are to be appropriated to the different classes of patients to be received. (*Ibid.*)

Notice of alterations and additions to hospitals.

36.—(1) Before any alteration or addition is made to, in, or about any hospital, whether registered after or before the date of these rules, the superintendent shall send notice in writing of the proposed alteration or addition to the Commissioners. (Sections 233, 320.)

(2) Every such notice shall be accompanied by plans and descriptions similar to those specified in the last preceding rule. (*Ibid.*)

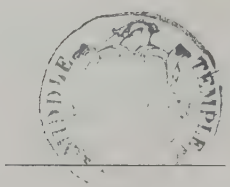
Hospitals already registered to furnish plans.

37. In the case of hospitals registered before the date of these rules, the Commissioners may require the superintendent of any such hospital to furnish, at the cost of the hospital, such plans of all or any of the buildings used for the purposes of the hospital as, being of the description hereinbefore specified, the Commissioners may think fit. (Section 233.)

Abstracts of hospital accounts to be sent to Commissioners.

38. The superintendent of every hospital shall within one calendar month next after the accounts of the hospital shall have been submitted to the Charity Commissioners or have been audited, send to the Commissioners an abstract of the accounts in such form as the Commissioners shall from time to time prescribe. (Section 234.)

39. These rules shall come into operation on the first of May, one thousand eight hundred and ninety.



Form 1.

FORM 1.

REGISTER OF PATIENTS.

Date of last previous Admission, if any.	No. in order of Admission.	Date of Admission.	Date of reception Order.	Christian and Surname at Length.	Sex. M.	Sex. F.	Age.	Condition as to Marriage. Married.	Condition as to Marriage. Single.	Condition as to Marriage. Widowed.	Condition of Life, and previous occupation.	Previous Place of Abode.	Union, County, or Borough to which chargeable.	By whose Authority sent.	Dates of Medical Certificates, and by whom signed.	Form of Mental Disorder.	Supposed Cause of Insanity.	Bodily Condition, and Name of Disease, if any.	Epileptics.	Congenital Idiots.	Duration of existing Attack. Years.	Duration of existing Attack. Months.	Duration of existing Attack. Weeks.	Number of previous Attacks.	Age on first Attack.	Date of Removal, Discharge, or Death.	Removed or Discharged. Recovered.	Removed or Discharged. Relieved.	Removed or Discharged. Not improved.	Died.	Observations.
	1	1880: Jan. 3		William Johnson	1	–	23	–	1	–	Carpenter	–	–	–	–	Melancholia.	–	–	–	–	–	–	2	17	1881: Sept. 7	1				
	2	1882: June 9		William Johnson	1	–	25	–	1	–	–	–	–	–	–	–	–	–	–	–	7	–	–	3	–	1883: Dec. 2	1				
	3	1883: July 6		William Johnson	1	–	29	–	–	–	–	–	–	–	–	–	–	–	–	–	3	–	–	4	–	1884: June 8					

Form 2.

Medical Journal to be kept at Asylums, Hospitals, and Licensed Houses.

Date.	Number of Patients.		Patients who are or since the last entry have been in seclusion, when, and for what period, and reasons.		Patients under medical treatment, and for what, if any, bodily disorder.		Deaths, injuries, and violence to patients, since the last entry.
	Males.	Females.	Males.	Females.	Males.	Females.	

Form 3.

Form 3.

Medical Journal for Single Patients.

Date.	Mental condition; what evidence of insanity? Any and what change since last visit.	Bodily Health and Condition.	Seclusion since last visit. When and how long.	Visits of friends; date of visit; name of friend.	State of house and furniture, bed and bedding supply, and condition of wearing apparel.	Dietary proper? If not, state the reason.	Employment, exercise, and amusements.

Form 4.

Register of Mechanical Restraint.

Date.	Names of Patients.		Means of Restraint employed.	Duration in Hours.	Certificate of Medical Superintendent, Medical Officer, Medical Proprietor, or Medical Attendant, stating grounds upon which the restraint was employed.
	Male.	Female.			
		C. S. Burns.	Strait waistcoat.	20	

Form 5.

Register of Voluntary Boarders.

Date of Reception into Institution.	Names of Boarders.		Term for which Residence is permitted.	Extended Term and Date of Consent to the Extension.	Names of Commissioners or Visitors consenting to Reception, or Extension of Term, where such Consent necessary.	Date on which the Boarder leaves the Institution.	Reception, whether for Treatment, or as Relative or Friend of a Patient.
	Male.	Female.					

Form 6.

FORM 6.

REGISTER OF REMOVALS, DISCHARGES, AND DEATHS.

Date of Removal, Discharge, or Death.	Date of last Admission.	No. in Register of Patients.	Christian and Surname at Length.	Sex.		Discharged.						Removal, and to what Asylum, registered Hospital, or licensed House.				Died.		Assigned Cause of Death.	Age at Death.		Observations.
						Recovered.		Relieved.		Not improved.		Relieved.		Not improved.							
				M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.		M.	F.	
1881: Sept. 1 -	1880: Jan. 3. -	1	William Johnson.	1	—	1															
1883: Dec. 2 -	1882: June 9 -	2	William Johnson.	1	—	1															
1884: June 8 -	1883: May -	3	William Johnson.	1	—	—	—	—	—	—	—	—	—	—	—	1	—	Phthisis	27		

Form 7.

FORM 7.

NOTICE OF ADMISSION.

Date of reception order, the day of , 18 .

I hereby give you notice that *A.B.* was admitted into this asylum [*or* hospital *or* house] as a private [*or* pauper] patient [*or* into the house of situate at as a singe patient] on the day of , and I hereby transmit a copy of the reception order and medical certificates [*or* certificate] and of the petition and statement of particulars on which he was received.

A statement with respect to the mental and bodily condition of the above-named patient will be forwarded in due course [*or as the case may be.* Subjoined is a statement with respect to the mental and bodily condition of the patient].

(Signed)

Clerk of the asylum, *or* manager of the lunatic hositpal known as , situate at , *or* of the licensed house known as , situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of .

To the Commissioners in Lunacy
[*or as the case may be*].

FORM 8.

MEDICAL STATEMENT.

I have this day [*some day not less than two clear days after the admission of the patient*] seen and examined the patient mentioned in the Notice of Admission dated the day of , [*or as the case may be* the above notice] and hereby certify that with respect to mental state he [*or* she] [*describing it*] and with respect to bodily health and condition he [*or* she] [*describing it*].

Dated the day of .

(Signed)

Medical officer of the asylum, *or* hospital known as , situate at , *or* resident medical practitioner *or* medical attendant of the licensed house known as , situate at , *or* medical practitioner visiting the said patient.

Form 9.

Form 9.

Report as to Private Patient.

To be sent at the expiration of *one month after* reception.

I have this day seen and examined received here on the day of , 189 , and report that with respect to mental condition he is , and that with respect to bodily condition he is .

Dated this day of , 189 .

A.B., medical officer of the asylum *or* hospital, *or* medical attendant of (licensed house) *or* medical practitioner visiting the said patient.

To the Commissioners in Lunacy.

Form 10.

Notice of Removal.

I hereby give you notice that , a private [*or* pauper] patient received into this asylum [*or* hospital *or* licensed house *or* house] on the day of was, on the day of , removed to relieved [*or* not improved] by the authority of .

(Signed)

Clerk of the asylum *or* manager of the lunatic hospital known as , situate at , *or* of the licensed house known as , situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of .

To the Commissioners in Lunacy,
[*or as the case may be*]

Form 11.

Notice of Discharge.

I hereby give you notice that , a private [*or* pauper] patient received into this asylum [*or* hospital *or* licensed house *or* house] on the day of , was discharged therefrom recovered [*or* relieved *or* not improved] on the day of by the authority of .

(Signed)

Clerk of the asylum, *or* manager of the lunatic hospital known as , sitnate at , *or* of the licensed house known as , situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of .

To the Commissioners in Lunacy
[*or as the case may be*].

Form 12.

FORM 12.

NOTICE OF ESCAPE.

I hereby give you notice that , a private [*or* pauper] patient received into this asylum [*or* hospital *or* licensed house *or* house] on the day of , escaped therefrom on the day of .

The state of mind of the patient at the time of his escape was [*state it*].

The circumstances attending the escape were as follows [*state them*].

(Signed)

Clerk of the asylum, *or* manager of the lunatic hospital known as , situate at , *or* of the licensed house known as , situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of .

To the Commissioners in Lunacy
[*or as the case may be*].

FORM 13.

NOTICE OF RECAPTURE.

I hereby give you notice that , a private [*or* pauper] patient who was received into this asylum [*or* hospital *or* licensed house *or* house] on the day of , and escaped therefrom on the day of , was on the day of recaptured under the following circumstances [*state them*].

The patient has been again received into this asylum [*or* hospital *or* licensed house *or* house] under [*or* without] a fresh reception order and certificates.

(Signed)

Clerk of the asylum, *or* manager of the lunatic hospital known as , situate at , *or* of the licensed house known as situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of .

To the Commissioners in Lunacy
[*or as the case may be*].

FORM 14.

NOTICE OF DEATH.

I hereby give you notice that , a private [*or* pauper] patient received into this asylum [*or* hospital *or* licensed house *or* house] on the day of ., died therein on the day of .

Form 14.

And I certify that was present at the death of the said , and that the apparent cause of his death [ascertained by *post mortem* examination *if so*] was

(Signed)
Clerk of the asylum, *or* manager of the lunatic hospital known as situate at , *or* of the licensed house known as , situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of .
To the Commissioners in Lunacy
[*or as the case may be*].

FORM 15.

NAMES of all [male] *or* [female], *as the case may be*, pauper lunatics in the asylum at for the county [*or* borough &c., *as the case may be*] of on the 1st day of January or July, 18 .

Names of those chargeable to a Union.	Name of Union to which chargeable.	Date of Admission.	Names of those chargeable exclusively to County or Borough Fund.	Date of Admission.	Names of those chargeable to Visitors of other Asylums.	Date of Admission.	Criminal Patients.	Date of Admission.

This is a correct return.

(Signed)
Dated Clerk of the Asylum.

FORM 16.

NAMES of all private lunatics in the asylum at for the county [*or* borough, &c., *as the case may be*], of on the day of , 189 .

Name.	Date of Admission.

This is a correct list.

(Signed)
Clerk of the Asylum.

Form 17.

FORM 17.

County of
Union [*or* Parish] of
District of

QUARTERLY LIST of LUNATIC PAUPERS within the district of the union of [*or* the parish of], in the county or borough of , not in any asylum, hospital, or licensed house.

Name.	Sex.	Age.	Form of Mental Disorder.	Duration of present attack of Insanity, and if idiotic whether or not from birth.	Resident in Workhouse.	Non-resident in Workhouse, where and with whom resident.	Date of visit.	In what state as to Bodily and Mental Condition, Accommodation, and general Care and Management.	If ever mechanically restrained, why, and by what means, and how often.

I declare that I have personally examined the several persons whose names are specified in the above list on the day set opposite their names; and I certify, first, with respect to those appearing by the above list to be in the workhouse, that the accom-

modation in the workhouse is sufficient for their reception, and that they are all [*or*, all except] proper patients to be kept in the workhouse; and, secondly, with respect to those appearing by the above list to be resident elsewhere than in the workhouse, that they are all [*or*, all except] properly taken care of, and may properly remain out of an asylum. **Form 17.**

I declare that the persons in the above list are, to the best of my knowledge, the only pauper lunatics in the district of the union of [*or* in the parish of] who are not in an asylum, hospital, or licensed house.

(Signed) *A.B.*

Medical officer of the district of of the union [*or* parish] of .

Dated the day of .

FORM 18.

County of
Union [*or* Parish] of
District of

SIR,

I DECLARE that to the best of my belief there has not, during the quarter ending the day of 189 , been any pauper lunatic residing in the district of the union of [or in the parish of] who is not in an asylum, hospital, or licensed house.

(Signed)

Medical officer.

Dated this day of , 18 .

Form 19.

FORM 19.

FORM OF ANNUAL RETURN.

A TRUE LIST of all LUNATICS chargeable on the 1st January, 18 , to the Union [or Parish of] in the County [*or* Counties] of , specifying the names, sex, and age of each, and where detained or residing.

Name.	Age.	Sex.	Where maintained,						Weekly Cost of Maintenance and Clothing.	Observations.
			In any and what County or Borough Asylum, including Patients out on trial, but excluding those boarded-out.	Boarded-out with Relatives or Friends under the Lunacy Act, 1890, section 57.	In any and what Hospital or licensed House, including Patients out on Trial.	In the Workhouse.	In Lodgings, or boarded-out, and where, and with whom, by Name.	Residing with Relatives, and where, and with whom, by Name.		

Signed by me this day of 18 .

A. B.

Clerk to the Board of Guardians of the said Union.

Sealed with the common seal of the Commissioners in Lunacy by order of the Board in the presence of

L. S.

G. HAROLD URMSON, Secretary.
19, Whitehall Place, London, S.W.,
the 29th day of March, 1890.

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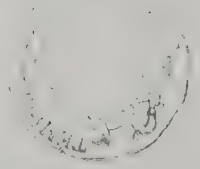

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